

## **Article 9 Supplemental Use Regulations**

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## **Article 9 Supplemental Use Regulations**

### **9-1 Accessory Structures and Uses; Parcel Limitations**

- 9-1.1 The aggregate gross floor area of an accessory structure (i.e., the total gross floor area of all accessory structures) shall not exceed thirty (30) percent of the area of the rear yard, nor shall it exceed 25% of the total area of the principal structure.
- 9-1.2 Accessory structures shall not be located closer than five (5) feet to any rear or side property line.
- 9-1.3 An accessory dwelling structure in a single-family dwelling or in an accessory building may be permitted by Special Use Permit in an R-15 or R-10 Residential District, provided that
1. Either the main dwelling or the accessory dwelling structure be occupied by the owner of the property,
  2. The accessory dwelling structure shall not exceed twenty-five (25) percent of the total floor area of the main dwelling nor contain less than five hundred (500) square feet of floor area,
  3. The general appearance of a single-family dwelling shall be maintained,
  4. No exterior stairways to a second floor be constructed at the front or side of the main building, and
  5. At least three (3) off-street parking spaces are available on the property for use by the owner-occupant and the tenant.
- 9-1.4 A temporary family health care structure per § 15.2-2292.1 of the Code of Virginia shall be allowed accessory to a single-family dwelling located on a lot, provided that:
1. Only one temporary health care structure shall be permitted per lot;
  2. No more than one person shall occupy the temporary health care structure;
  3. The structure shall not exceed 300 gross square feet in area;
  4. The structure shall comply with the setback requirements for primary structures in the district;
  5. The structure shall primarily be assembled at a location other than the lot on which it is to be located;
  6. The structure shall not be placed on a permanent foundation;
  7. A physician licensed in Virginia has certified in writing that the person who occupies or intends to occupy the structure is mentally or physically impaired because he/she requires assistance with two or more activities of daily living during more than half the year;

8. The caregiver for the mentally or physically impaired occupant of the temporary health care structure lives in the primary residence on the lot, and is an adult related by blood, marriage, or adoption or is the legally appointed guardian of the occupant of the structure;
9. The structure shall be removed within thirty (30) days of the impaired person no longer meeting the certification requirements or no longer residing within the structure;
10. The structure shall not be used for, or converted to, another use;
11. No signage advertising or promoting the existence of the structure shall appear on the structure or anywhere on the property;
12. The structure shall be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable codes and requirements, including permits and fees associated therewith separated from the required permit fee set forth in Section 13 (v) of this section, for such connection.
13. A zoning permit shall be obtained pursuant to Section 11-3.4.1 prior to placement of such structure on the lot. In conjunction with the request for the zoning permit and annually thereafter, the following shall be submitted to the satisfaction of the Zoning Administrator:
  - i. documentation of the need for care for the mentally or physically impaired person to include a letter of certification written by a licensed physician;
  - ii. documentation of the relationship of the mentally or physically impaired person and caregiver;
  - iii. permission for the Zoning Administrator or representative to inspect, at reasonably convenient times, the structure and the single family dwelling on the lot to determine compliance with this section.
  - iv. any additional information deemed necessary by the Zoning Administrator to assure compliance with this section.
  - v. A permit to install the structure along with a \$100.00 fee.

## **9-2 Additional Regulations Where a Grouping or More than One Use is Planned for a Tract**

- 9-2.1 The development shall consist of a harmonious selection of use and groupings of buildings, service and parking areas, circulation and open spaces, planned and designed as an integrated unit, in such a manner as to constitute a safe, efficient, and convenient neighborhood commercial center.
- 9-2.2. The proposed development shall be constructed in accordance with an overall plan and shall be designed as a single architectural unit with appropriate landscaping. All buildings shall be arranged in a group or groups.
- 9-2.3 The distance at the closest point between any two (2) buildings or groups or units of attached buildings shall be not less than twelve (12) feet.

- 9-2.4 Adequate areas shall be provided for loading and unloading of delivery trucks and other vehicles; servicing of shops by refuse collection, fuel, fire, and other service vehicles; automobile accessways; and pedestrian walks. Service areas shall be screened from view and abutting roadway, from within the parking area and from adjacent properties.
- 9-2.5 Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the center without undue congestion or interference with normal traffic flow.

### **9-3 Affordable Dwelling Unit Provisions**

9-3.1 A density bonus system is offered to encourage private sector development of low and moderate priced dwelling units. ADUs must be built so as to provide a convenient, safe, pedestrian-friendly and accessible living environment in which the affordable dwelling units blend in and are interspersed with market-rate dwellings. For the purposes of this Article, persons eligible to rent or buy affordable dwelling units (ADU) shall include those eligible for assistance under the following state or federal programs:

- Virginia Housing Development Authority
- Section 8 Rental Assistance Program
- Department of Housing and Urban Development Community Block Grant Program
- Farmer's Home Administration Program
- Other programs similar to those named herein as approved by Town Council

9-3.2 The applicant shall provide assurance to the Town that the affordable dwelling units will continue to be available for this purpose for at least twenty-five (25) years following the date of Town approval. This assurance will take the form of a deed restriction, restrictive covenants, or other form of legal and binding agreement approved by the Town Attorney and Town Council.

9-3.3 The density bonuses outlined in the District provisions in Article 3 shall be permitted in conjunction with the ADU density bonus. The maximum density shall not exceed that provided for in the provisions of each District. Percentages of density increase are to be applied separately and are not to be compounded. The process for granting approval of such density bonuses shall be in accord with the procedures and provisions for zoning amendments provided for in Article 11.

9-3.4 The applicant shall design and develop the site using the traditional design techniques provided for in Article 9, Section 9-20 and Article 3, Section. 3-5.2.10.

9-3.5 ADU's should first be made available to persons residing or working in the Town of Warrenton or Fauquier County. The developer shall contact the appropriate local Social

Service and/or Housing Authority offices for identification and placement of residents ninety (90) days prior to advertising the availability of the units.

#### 9-3.6 Special Parking Considerations for Affordable Dwelling Units

In order for developers to achieve densities that are allowed under the ADU density bonus, the following reductions may be allowed with the approval of Town Council:

- Single room occupancies: 1.0 parking space per unit
- Studio/Efficiency: 1.25 parking spaces per unit
- One Bedroom: 1.5 parking spaces per unit
- One Bedroom and Den: 2.0 parking spaces per unit

### 9-4 Apartment Buildings, Special Regulations

Apartment buildings shall be constructed in accordance with an overall plan and shall be designed as a single architectural unit with appropriate landscaping.

Adequate areas shall be provided for loading and unloading of delivery trucks and for the servicing of refuse collection, fuel, fire, and other service vehicles. These areas shall be so arranged that they may be used without blockage or interference with the use of accessways or parking facilities. Service areas shall be screened from view from any abutting roadway and from within the parking area.

Provision shall be made for safe and efficient vehicular ingress and egress to and from public streets and highways serving the center without undue congestion to or interference with normal traffic flow. Provision shall also be made for safe and convenient pedestrian ingress and egress to all adjacent public rights of way, as well as to adjacent properties. Where intersection augmentation is required, the applicant shall bear the cost of any improvements made necessary by his development.

### 9-5 Bed and Breakfast Facilities

The following establishments are permitted in designated districts subject to all applicable district regulations of this Ordinance and the issuance of a zoning permit.

#### 9-5.1 Bed and Breakfast

- 9-5.1.1 The owner of the premises shall reside in and manage the establishment.
- 9-5.1.2 The establishment shall not contain restaurant facilities, but may provide morning food service for transient, overnight guests only.
- 9-5.1.3 Up to four (4) guest rooms without cooking facilities may be provided for paying guests.

- 9-5.1.4 On-site, off-street parking shall be provided, not located in front yards, at a minimum of one space per guest room, in addition to the minimum requirements for the residents of the dwelling unit.
- 9-5.1.5 The establishment shall have safe access to and from a public road.
- 9-5.1.6 Commercial use or rental of the property for business meetings, seminars, receptions and similar events shall not be permitted.

## 9-5.2 Inn

- 9-5.2.1 The owner or manager shall provide full-time management of the establishment at all times when the facility is occupied by one or more guests.
- 9-5.2.2 The establishment shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
- 9-5.2.3 Up to twelve (12) guest rooms without cooking facilities may be provided for paying guests.
- 9-5.2.4 Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in Section 9-19.
- 9-5.2.5 On-site, off-street parking shall be provided, not located in front yards, at a minimum of one space per guest room, in addition to the minimum requirements for the residents of the dwelling unit.
- 9-5.2.6 The establishment shall have safe access to and from a public road.

## 9-6 Cluster Development Provisions

### 9-6.1 Intent

The site design and development of a cluster development shall preserve permanent open space and achieve efficient and improved use of land by minimizing grading and destruction of natural vegetation, particularly mature trees on steep slopes and in stream valleys. Plans shall not be approved where the design subverts the purposes of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the development.

### 9-6.2 General Provisions and Applicability

- 9-6.2.1 The cluster development shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed or undeveloped properties, and to this end may employ such design techniques as may be appropriate in a particular case, including coordination of yard dimensions, location of lots of various sizes, location of buildings with respect to project boundary lines, location of open spaces, and maintenance of vegetation.

9-6.2.2 No resubdivision or sale by any means shall be permitted in a development approved under this section which resubdivision or sale would in any way create a violation of this Ordinance.

9-6.2.3 A minimum of thirty (30) percent of the subject tract shall be designated as permanent common open space in accord with the provisions of Article 9. Such land may include parks, woodlands, steep slopes, flood plains, bodies of water, or any natural feature appropriate for preservation; provided, however, that no more than thirty (30) percent of the required open space shall consist of bodies of water. Private outdoor recreation facilities such as swimming pools and tennis courts, the use of which is limited to the occupants of the development, may be included as part of the required open space, as may those buildings, structures or sites officially listed on the Virginia Landmarks Register. The land area to be set aside for common open space shall be so located and shaped as to have a logical and mutually beneficial relationship to additional open space in adjacent tracts, whenever practical and feasible.

9-6.2.4 All open space land in or encompassed by a cluster development which is a part of the same tract (either required or not required open space) and is not actually used or planned for development shall be maintained as open space to be enjoyed by the residents. Open space shall be provided and maintained either:

- under the provisions of Article 9;
- by the developer and/or management in the case of rental properties on either a temporary or permanent basis;
- it may be sold as a separate, undevelopable parcel.

9-6.2.5 All required open space in a cluster development shall be placed under a permanent conservation easement that precludes future development of the open space areas, regardless of future ownership. Such easement shall be dedicated in whole or in part to the Town and/or a conservation entity authorized to accept such easements. The provisions and form of the easement must be satisfactory to the Town.

### 9-6.3 Procedures

The cluster development alternative shall be permitted by special use permit subject to all provisions of Article 11, Special Use Permits, provided there is also full compliance with the standards for cluster development as set forth in the district regulations. In addition, documentation shall be provided to demonstrate that the land to be developed is under one (1) ownership or control, or in the case of several owners, that agreement has been reached that the tract shall be developed under single direction and in the manner set forth, and that the conservation easement required in Section 9-6.2.5 shall be recorded in

conjunction with approval of the cluster development subdivision record plat.

## **9-7 Home Occupations and Home Businesses**

Home Occupations and Home Businesses, as defined in Article 12, are permitted in certain districts as provided herein, subject to the following requirements.

### **9-7.1 Home Occupations**

- 9-7.1.1 No person other than members of the family residing on the premises shall be engaged in such occupation on the premises.
- 9-7.1.2 The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the family, and the total area used for the occupation on the site, in the residence and/or in any accessory structures, shall not exceed an amount equal to twenty-five (25) percent of the gross floor area of the dwelling unit.
- 9-7.1.3 There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.
- 9-7.1.4 There shall be no on-site sales in connection with such home occupation, other than items handcrafted on the premises or client meetings for the provision of professional services, and there shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.
- 9-7.1.5 No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood (ten [10] vehicle trips per day per dwelling). Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard, unless located on that property's existing driveway.
- 9-7.1.6 No equipment or activity shall be used or conducted in such home occupation which creates noise, vibrations, glare, fumes, odors or electrical interference detectable from off the lot.

### **9-7.2 Home Businesses**

- 9-7.2.1 Members of the family residing on the premises are permitted to be engaged in such home business.
- 9-7.2.2 For activities meeting the definition of Home Business, in addition to family members residing on the premises, up to three (3) non-resident, non-family employees shall be permitted to work on the premises up to 40 hours per week each, subject to the requirements for parking and traffic as provided herein.
- 9-7.2.3 The use of the dwelling or accessory building for the home business shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. The total area used for the business on the site shall not exceed an



amount equal to twenty-five (25) percent of the gross floor area of the dwelling unit.

- 9-7.2.4 Signs shall be allowed in accordance with Article 6, and specifically Section 6-12.1.
- 9-7.2.5. No traffic shall be generated by such home business in greater volumes than would normally be expected from a residential use (10 vehicle trips per day per dwelling). Any need for parking generated by the conduct of the home occupation or business shall be met by off street parking other than in a required front yard unless located on an existing driveway. One additional off-street parking space shall be provided for each non-family resident employee. Such parking space(s) shall not be located in the required front yard, unless located on an existing driveway, and shall not result in any reduction in the normal minimum required parking for residential dwellings. Such parking spaces also shall not create any impact on the parking requirements or supply of parking of adjacent properties in the neighborhood.
- 9-7.2.6. In connection with such home business, there shall be no client or customer visits that generate traffic in excess of what would normally be expected from a residential use (10 vehicle trips per day per dwelling). Also, there shall be no items sold on-site other than items handcrafted on the premises. There shall be no group instruction, assembly, activity, or display that indicates from the exterior that the building is being used for any purpose other than that of a dwelling.
- 9-7.2.7. No equipment or activity used or conducted in such home occupation or business shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to neighbors or passersby, or the use of radio, TV, audio, computer or telephone equipment off the lot or in adjacent dwelling units.

## **9-8 Lighting**

### **9-8.1 Purpose**

The purpose of these lighting regulations is to establish minimum standards for outdoor lighting in order to:

1. Ensure the provision of lighting that provides safety, utility, and security;
2. Prevent dangerous glare on public roadways and nuisance glare onto adjacent properties;
3. Protect the privacy of neighbors by limiting light trespass to neighboring properties;
4. Limit light pollution; and
5. Protect and retain the established historic character of the Town.

### **9-8.2 Applicability**

9-8.2.1 These outdoor lighting regulations shall apply to each outdoor lighting fixture

installed or replaced after the date of adoption of these regulations which:

1. Is located on property within a commercial, mixed-use, multi-family residential or industrial zoning district, including sign, architectural, landscape, and recreational lighting;
2. Is to be installed in conjunction with a use for which a site plan is required by this Ordinance;
3. Is to be installed in conjunction with a public or municipal use such as schools, parks, fire / rescue stations and libraries;
4. Involves the use or installation of a high intensity discharge lamp, regardless of its initial lumens or location; or
5. Involves the replacement of inoperable bulbs, fixtures or other components which shall be subject to the subdivision or site plan requirements of this Ordinance. However, if the failed component is part of a multi-fixture installation, it may be replaced with a similar fixture if necessary to maintain the appearance or performance of the entire existing installation.

9-8.2.2 The lighting standards set forth in Section 9-8.6 shall apply to all uses in the Town.

#### 9-8.3 Conformance with Codes

All outdoor illuminating devices shall be installed and maintained in conformance with the provisions of the Building Code, the Electrical Code, and the sign regulations of this Ordinance.

#### 9-8.4 Exemptions

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

9-8.4.1 Seasonal decorative lighting.

9-8.4.2 Lighting which is not subject to this chapter by state or federal law.

9-8.4.3 Construction, agricultural, emergency or holiday decorative lighting, provided that the lighting is temporary, and is discontinued within seven (7) days upon completion of the project or holiday for which the lighting was provided.

9-8.4.4 Security lighting controlled by sensors which provides illumination for ten (10) minutes or less.

9-8.4.5 Light sources on public utility poles in the public rights of way.

9-8.4.6 Public street lights.

## 9-8.5 Lighting Plan Required

For subdivision, site plan, signs (see Article 6), and other land-development applications where site lighting subject to these provisions is required or proposed, lighting plans shall be submitted to the Town for review and approval in conjunction with such development applications, and shall include:

- 9-8.5.1 The location of all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, adjacent uses that might be adversely impacted by the lighting, and a layout of all proposed fixtures by location, mounting height and type. The submittal shall include all lighting sources, including but not limited to, area lighting, architectural lighting, building-entrance lighting, landscape lighting and sign lighting.
- 9-8.5.2 Description of the proposed equipment, including fixture catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole foundation details and mounting methods.
- 9-8.5.3 A visual-impact plan that demonstrates that appropriate steps have been taken to mitigate on-site and off-site glare and light trespass and to protect the Town's character.
- 9-8.5.4 Lighting Plan Approval. If the zoning administrator determines that the proposed lighting plan does not comply with these regulations, the plan shall not be approved. The Zoning Administrator shall provide the applicant with a written description of the deficiencies of the plan, and the applicant may submit a revised plan for review and approval. Decisions by the Zoning Administrator may be appealed in accord with the provisions of Article 11 of this Ordinance.

## 9-8.6 Lighting Standards

### 9-8.6.1 Control of Nuisance and Disabling Glare

1. All outdoor lighting, whether or not required by this Ordinance, on private, residential, commercial, industrial, municipal, recreational or institutional property, shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their view or ability to safely traverse the area and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring uses or property.
2. Directional fixtures such as flood lights, spot lights and sign lights shall be installed or aimed so that they do not shine directly into the window of a neighboring residence, directly into a roadway, or skyward.
3. All outdoor light fixtures, including those that light the area under outdoor canopies, shall be shielded in such a manner that no light is emitted above a horizontal plane passing through the lowest point of the light-emitting

- element, so that direct light emitted above the horizontal plane is eliminated.
4. All outdoor lighting fixtures, including display lighting, shall be turned off after close-of-business, excluding automated or motion operated security lighting.
  5. Vegetative screens shall not be the primary means for controlling glare. Rather, such control shall be achieved primarily through the use of full cut-off fixtures, the appropriate application of mounting height, wattage, aiming angle, fixture placement and fixture design, and the addition of louvers, shields and baffles as necessary.
  6. Externally illuminated signs shall be lighted by fixtures mounted at the top of the sign, shielded and aimed down or by fixtures mounted at the bottom of the sign and aimed and shielded such that the light falls only on the sign surface so as to limit sky-lighting impacts, and no glare is created off the sign face.
  7. Lighting for commercial, industrial, public recreational and institutional uses shall be controlled by automatic switching devices such as time clocks or combination motion detectors and photocells, to permit extinguishing after hours outdoor lighting fixtures, to mitigate nuisance glare and sky-lighting consequences.
  8. Lighting proposed for use after 11 p.m., or after normal hours of operation of a business, which ever is earlier, for commercial, industrial, institutional or municipal uses, shall be reduced by at least 50% from then until dawn.
  9. All illumination for advertising signs, buildings and/or surrounding landscapes for decorative, advertising or esthetic purposes is prohibited between 11:00 p.m. and sunrise, except that such lighting situated on the premises of a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.
  10. Illuminated signs shall have an indirect lighting source or shielded source. Fixtures used for architectural lighting, such as façade, feature and landscape lighting, shall be aimed or directed so as to preclude light projection beyond the immediate objects intended to be illuminated.
  11. Glare shall be prevented through the use of light diffusers such as translucent glass, or lenses which direct lights rays to prevent glare.
  12. Outdoor lighting of sports fields and facilities shall be extinguished after the completion of the event.

#### 9-8.6.2 Installation and Maintenance

1. The applicant shall install or cause to be installed all lighting fixtures, poles and related facilities in accord with the lighting plan approved by the Zoning Administrator. The applicant and subsequent landowner shall be responsible for all costs involved in the maintenance, upkeep and operation of all lighting, parking and loading areas and other elements required by this

Ordinance.

2. In no case shall a lighting fixture be mounted in excess of twenty-five (25) feet above grade.
3. Light poles shall be no greater than twenty (20) feet in height in a residential district or mixed-use district, nor twenty-five (25) feet in a commercial or industrial district.
4. Except as otherwise provided for herein, fixtures meeting IESNA full-cutoff criteria shall not be mounted in excess of twenty (20) feet above finished grade. Fixtures not meeting IESNA cutoff criteria shall not be mounted in excess of sixteen (16) feet above grade.
5. Electrical feeds for fixtures mounted on poles shall be run underground, not overhead.
6. All light fixtures that are required to be full cut-off fixtures shall be installed and maintained so that the shielding is effective as described in the definition of a full cut-off fixture, as defined herein.
7. Lamp types that are required to have full cut-off fixtures include Low/High Pressure Sodium, Mercury Vapor, Metal Halide and Fluorescent over 50 watts and Incandescent (including tungsten-halogen (quartz) lamps) over 160 watts.
8. Lamp types that are not required to have full cut-off fixtures include Incandescent 160 watts or less, fossil fuel, any light source of 50 watts or less.
9. All lights in open areas such as parking lots are required to have full cut-off fixtures.
10. Lighting fixtures shall be maintained so as always to meet the requirements of this Ordinance.

#### 9-8.6.3 Design

1. Except as provided herein, each outdoor luminaire subject to these outdoor lighting regulations shall be a full cut-off luminaire or a decorative luminaire with full cut-off optics.
2. If a luminaire is equipped with more than one lamp, the lumens of the lamp with the highest initial lumens shall determine the lumens emitted.
3. Light sources shall not cast glare upon adjacent property or upon a public right of way. The intensity at adjoining streets and commercial or industrial properties shall not exceed 1.0 foot candles, and the intensity at adjoining residential or institutional property boundaries shall not exceed 0.5 foot candles.
4. For auto/truck service stations and convenience retail uses, lighting in island canopy ceilings for the purposes of security and safety below the canopy shall be recessed and have full cut-off fixtures with flat lenses, and shall not exceed 40 initial output lumens per square foot of canopy. The canopy

structure shall not be lit.

#### 9-8.7 Prohibitions

The following lighting types are prohibited:

- 9-8.7.1 Laser source light when projected above the horizontal plane.
- 9-8.7.2 Searchlights for advertising or for other non-public safety purposes, except for openings and temporary events as defined in Section 9-19 of this Ordinance and limited to ten (10) days as approved with a temporary permit.
- 9-8.7.3 Reflective mountings.
- 9-8.7.4 Exposed neon tube lighting, except in signs as allowed in Article 6.
- 9-8.7.5 Flashing lights, except as specifically permitted in this Ordinance.

#### 9-8.8 Waivers and Modifications

The Town Council, in conjunction with the approval of a special permit, may modify or waive one or more of the standards set forth in this section, and may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations, in accord with the procedures and standards for Special Use Permits set forth in Article 11, Section 11-3.11, in the following circumstances:

- 9-8.8.1 Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public interest, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.
- 9-8.8.2 Upon finding that an outdoor luminaire, or system of outdoor luminaries, required for a publicly owned baseball, softball, football or soccer field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America (IESNA) for that type of field and activity or other evidence if a recommended practice is not applicable.

#### 9-8-9 Nonconforming lighting

Any lighting fixture lawfully existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance shall be considered a lawful nonconformance subject to the following:

A nonconforming lighting fixture shall be made to conform with the applicable requirements of this Ordinance when:

1. It is replaced, abandoned or relocated.
2. There is a change in use of the property on which the area being illuminated is located, which change of use requires a site plan.

## **9-9 Manufacturing Buildings, Special Regulations**

### 9-9.1 General Standard

All uses shall be conducted so as not to produce hazardous, objectionable, or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire, or explosion.

### 9-9.2 Enclosed Buildings

All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of raw, in process, or finished material and supplies or waste material. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from the street or from a residence district by landscaping, fences, or walls.

### 9-9.3 Landscaping and Fencing

Where approval of a site plan is required, the landscape plan shall be designed to promote harmonious relationships with adjacent and nearby residential properties, developed or undeveloped, and to this end shall provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen, or natural vegetation as outlined in Article 8 General Provisions for Landscaping. All fencing shall have a uniform and durable character and shall be properly maintained.

## **9-10 Mobile Homes (Manufactured Homes)**

### 9-10.1 Purpose

Mobile homes for residential use are not permitted as a new use. The intent of this section is to prescribe standards and conditions for the use of existing mobile homes as of the date of adoption of this Ordinance.

### 9-10.2 General Requirements for Existing Mobile Homes

- 9-10.2.1 A mobile home shall not be used for the purpose of an accessory use, such as a separate storage facility.
- 9-10.2.2 The attachment of a mobile home to another mobile home or attachment to a single-family dwelling is prohibited.

9-10.2.3 Mobile homes manufactured before 1976 shall not be located or relocated within the Town.

### 9-10.3 Temporary or Emergency Use Of Mobile Homes

9-10.3.1. Temporary use of mobile homes shall meet all other requirements in the zoning district for lot size, setbacks, etc.

9-10.3.2 Emergency uses of individual mobile homes only will be allowed in residential districts where a natural disaster or fire has destroyed or damaged normal dwellings. Approval of a temporary mobile home placement permit shall be required prior to the placement of the mobile home and may be approved by the Zoning Administrator for a period of up to one (1) year. The Zoning Administrator may grant one (1) extension of the time period of up to six (6) months.

9-10.3.3 Use of mobile homes for office or storage for construction projects

Mobile homes are permitted as temporary offices or storage structures in business, industrial or residential districts in the construction phase of buildings in such districts. Approval of a temporary mobile home placement permit shall be required prior to the placement of the mobile home and may be approved by the Zoning Administrator for a period of up to one (1) year. The Zoning Administrator may grant one (1) extension of the time period of up to six (6) months.

## 9-11 Office and Other Business Buildings, Special Regulations

9-11.1 The principal means of vehicular access for any office or business use containing more than ten thousand (10,000) square feet of floor area shall be from arterial, primary, or collector thoroughfares. In no case shall the principal means of access for such building be from a minor or local residential street. Access points shall be designed to minimize traffic hazard and congestion in accordance with accepted principles of traffic engineering and established Town policies.

9-11.2 Convenient, comfortable and safe pedestrian access shall be provided to adjacent public rights of way and to adjacent properties when appropriate, through the provision of sidewalks or trails.

9-11.3 Loading operations shall be conducted within a building and screened from general public view from fronting streets or shall be conducted at the side or rear of buildings.

9-11.4 Any part of the lot or project area not used for buildings or other structures, parking, loading, and accessways, shall be landscaped with appropriate planting, or with



pedestrian walks in accordance with an approved landscaping plan, in accord with Article 8, Landscape Requirements.

9-11.5 Refuse containers or refuse storage areas shall be located in a paved area and hidden from general public view, either from within or outside the lot, by means of fences, walls, or landscape planting.

## **9-12 Open Space**

9-12.1 Open Space, General. Where Open Space is required within any R district, the PUD district, or elsewhere at the developer's option, there are two (2) alternate arrangements possible for the ownership, maintenance, and perpetuation of the Open Space as follows.

9-12.2 Open Space Deeded to Town. Open Space may be deeded to the Town if the open space is to serve the public in general and is consistent with the policies for acquisition of open space as presented in the Comprehensive Plan and any applicable Town regulations. The Town Council shall determine whether or not to accept all such open space based upon conformity to the Comprehensive Plan, size, location, character, and general suitability. Such open space must consist of parks and recreation areas; conservation, utility, and drainage easements; greens or squares; or other similarly appropriate area as determined by the Town Council. Nothing herein shall deem it inappropriate for the Town to accept other lands by deed such as public building sites and right-of-way; however, such lands shall not be considered as fulfilling the acreage requirements for Open Space.

9-12.3 Open Space Lands in Corporate Ownership. Open Space not serving the public in general, not consistent with the open space policies as presented in the Comprehensive Plan or Town regulations; and not needed, desired, or dedicated to the Town shall be conveyed and duly established under the laws of Virginia to maintain and manage such Open Space. Agreements and covenants running with the land must assure its proper maintenance. All such arrangements are subject to the review and approval of the Town. Such covenants shall provide that the assessments, charges, and costs for the maintenance of the open space lands shall constitute a pro rata lien upon the individual lots, parcels, or other units of the development which can be sold, second only to taxes and any prior lien on each lot or parcel. The members of such nonprofit corporate ownership shall be the owners of all lots within the development, and the said land is to be held and used for the benefit of all residents. Such open space lands shall not be denuded, defaced, or destroyed in any manner.

9-12.4 General Location, Binding. All open space lands approved and adopted by the Town Council including, but not limited to, lands approved in conjunction with a concept development plan, preliminary sketch, plat or other development plan, are binding as to location, acreage, and uses proposed.

9-12.5 Indication of Final Plat. All final plats and development plans shall indicate in the title block, by section as recorded, the open space areas by type of use, the acreage, and the percentage of the total project included on each plat.

9-12.6 Streets, Lots, Parking Bays Not Included. Streets, alleys, service drives, parking bays, stormwater management facilities, and all lots to be transferred for sale, where provided as required, shall be computed as a part of the lot coverage, and shall not be credited as open space.

### **9-13 Outdoor Display**

An outdoor display area may be used for the display of equipment, machinery, vehicles and other merchandise or property for sale or lease, permitted to be sold on such property, hereafter the “merchandise”. The following conditions shall apply to the outdoor display of merchandise:

9-13.1 Merchandise shall be displayed on an impervious surface, not within designated parking areas for customers.

9-13.2 Vehicles, trailers, or other mobile merchandise displayed for sale, resale, or rent, shall be operable.

9-13.3 Merchandise being displayed shall be in a ready state of purchase or resale

9-13.4 Damaged, unassembled, or inoperable merchandise, must be stored on an impervious or gravel surface. No gravel surface shall be used to park vehicles to meet the minimum parking requirements of this Ordinance or otherwise.

9-13.5 No displays shall be permitted in public rights-of-way.

### **9-14 Performance Standards for All Non-Residential Uses**

9-14.1 Performance Standards. Performance standards for each non-residential use will be in conformance with standards adopted by the Town Council and in no case shall standards relative to water, air, sound, and land pollution control be less than those standards adopted by the Virginia Department of Health, the Virginia Water Control Board, and the Virginia Air Pollution Control Board.

9-14.2 The sound pressure level of sound radiated from an establishment, measured at the lot line of the site thereof that is the nearest thereto, shall not exceed the values in any octave band of frequency that are specified in Table 9-1 below, or in Table 9-1 as modified by the correction factors set forth in Table 9-2. The sound pressure level shall be measured with a sound level meter and an associated octave band analyzer conforming to standards prescribed by the American National Standards Institute.

Table 9-1 Maximum Permissible Sound Pressure Levels Measured re 0.0002 dyne per CM <sup>2</sup>		
Frequency Band Cycles per Second	Along Residential District Boundaries – Maximum Permitted Sound Level In Decibels	At Any Other Point on the Lot Boundary – Maximum Permitted Sound Level In Decibels
63	64	72
125	60	70
250	54	65
500	48	59
1000	42	55
2000	38	51
4000	34	47
8000	30	44

Table 9-2 Correction Factors	
Condition	Correction in Decibels
On a site contiguous to or across a street from the boundary of any R-district established by this chapter.	Minus 5
Operation between the hours of 10:00 p.m. and 7:00 a.m.	Minus 5
Sound of impulsive character (e.g., hammering)	Minus 5
Sound of periodic character (e.g., sawing)	Minus 5
Tone (e.g., hum or screech)	Minus 5
Sound source operated less than:	
20% in any one hour period	Plus 5 <sup>1</sup>
5% in any one hour period	Plus 10 <sup>1</sup>
1% in any one hour period	Plus 15 <sup>1</sup>

1. Apply only one of these corrections. All other corrections (including any one of the footnoted) are cumulative.

9-14.3 Smoke Control

- No smoke shall be emitted from any chimney or other source a visible gray greater than No. 1 on the Ringlemann Smoke Chart as published by the U. S. Bureau of Mines.

2. Smoke of a shade not darker than No. 2 on the Ringlemann Chart may be emitted for not more than four (4) minutes in any thirty (30) minutes.
3. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color, but with an equivalent apparent opacity.

#### 9-14.4 Control of Dust and Dirt, Fly Ash and Fumes, Vapors and Gases

1. No emission shall be made which can cause any damage to health, to animals or vegetation, or to other forms of property, or which can cause any excessive soiling at any point.
2. No emission of liquid, other than water, or solid particles from any chimney or otherwise shall exceed the following:
3. For less than eight (8) million Btu/hr: a maximum of 0.3 grains per standard cubic foot corrected to twelve (12) percent carbon dioxide, seventy (70) degrees F., and one (1) atmosphere pressure.
4. For over eight (8) million Btu/hr: a maximum of .08 grains per standard cubic foot corrected to twelve (12) percent carbon dioxide, seventy (70) degrees F., and one (1) atmosphere pressure.
5. For measurement of the amount of particles in gases resulting from combustion, standard correction shall be applied to a stack temperature of five hundred (500) degrees F. and fifty (50) percent excess air.

#### 9-14.5 Control of Odors

There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at lot boundary line. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system shall fail. There is hereby established as a guide in determining such quantities of offensive odors, Table III (Odor Thresholds) in Chapter 5 "Air Pollution Abatement Manual" copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C.

#### 9-14.6 Control of Glare or Heat

Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such manner as to be completely imperceptible from any point beyond the lot lines.

#### 9-14.7 Control of Vibration

No vibration which is discernible to the human sense of feeling shall be perceptible without instruments at any point beyond the lot line.

#### 9-14.8 Control of Radioactivity or Electrical Disturbance

There shall be no activities which emit dangerous or harmful radioactivity. There shall be no electrical disturbances (except from domestic household appliances) adversely affecting the operation of any equipment located beyond the property of the creator of such disturbances.

#### 9-14.9 Outdoor Storage and Waste Disposal

1. No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, provided, however, that tanks or drums of fuel directly connecting with energy devices, heating devices, or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.
2. All outdoor storage facilities for fuel, raw materials and products and all fuel, and all raw materials and products stored outdoors shall be enclosed by a fence adequate to conceal the facilities from any adjacent properties.
3. Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls, or landscape planting.
4. No materials or wastes shall be deposited upon a lot in such form or manner that it may be transferred off the lot by natural causes or forces.
5. All material or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

#### 9-14.10 Electric, Diesel, Gas, or Other Power

Every use requiring power shall be so operated that the service lines, substation, etc., shall conform to the most acceptable safety requirements recognized by the Virginia Bureau of Labor and Industry, shall be so constructed, installed, etc., to be an integral part of the architectural features of the plant, or if visible from abutting residential properties, shall be concealed by coniferous planting.

#### 9-14.11 Industrial Waste or Sewage

No use shall be conducted in such a way as to discharge any treated or untreated sewage or industrial waste treatment and disposal except as shall be approved by Sanitary Engineers or other qualified persons at the expense of the owner of the premises. The

Town of Warrenton may require sewage pre-treatment facilities to be installed, at the cost of the owner of the premises, to ensure that hazardous materials do not enter into the sewage collection and treatment facilities operated by the Town. Such facilities, and all monitoring procedures and required documentation, shall comply with all applicable state and federal approval procedures and regulations.

#### 9-14.12 Drainage

Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable Town ordinances.

#### 9-14.13 Provision and Use of Water

All water requirements shall be stated in the application. If water is to be supplied from wells, an approved or accepted geologic study shall be furnished by the applicant with a certification by a professional geologist that the underground capacity for water supply and water table levels will not be appreciably altered in such a way as to endanger the available supply for other properties.

#### 9-14.14 Other Uses

Any use, which in the opinion of the Planning Commission and Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise, or other cause shall be prohibited unless the applicant can substantially prove that such environmental impacts can be eliminated or controlled to meet the performance standards established by the Town.

### **9-15 Recycling Facilities**

9-15.1 Recycling Collection Facilities shall be subject to the following restrictions:

- 9-15.1.1 The facility shall be set back a minimum of 50 feet from the right of way of any public street or any lot zoned, used or planned for residential purposes.
- 9-15.1.2 Collection sites shall be maintained free of litter and debris.
- 9-15.1.3 Operation hours for collection sites may be established by the Town Council.
- 9-15.1.4 All facilities shall be screened from the view of abutting residential uses or districts by fences and landscaping conformance with the requirements of Article 8 of this Ordinance for light industrial uses abutting a residential use.
- 9-15.1.5 Containers shall be at least 200 feet from any residential dwelling.
- 9-15.1.6 No hazardous or toxic materials shall be accepted or permitted at such sites.
- 9-15.1.7 No noxious odors shall be emitted beyond the boundaries of the facility.

## **9-16 Residential Use Limitations**

### **9-16.1 Public Water and Sewer Service**

All development within the Town is required to be served by public water and sewer facilities in accord with engineering and design standards set forth in the Public Facilities Manual, as well as all provisions of the Zoning and Subdivision Ordinances and all other Town regulations.

### **9-16.2 Open Space Requirements**

9-16.2.1 Upon rezoning to any Residential District, at least ten (10) percent of the gross acreage of the tract shall be preserved as permanent, useable common open space, and developed for active recreation, passive recreation, or as a community green, regardless of other minimum requirements set forth in the districts.

9-16.2.2 All open space acreage shall be in addition to any required stormwater management facilities.

9-16.2.3 All active recreation space shall be graded and equipped for active recreational facilities to serve the residents of the development, in accord with Town engineering and design standards set forth in the Town PFM.

9-16.2.4 All passive recreation space shall preserve, environmentally sensitive areas, including, but not limited to, 100-year floodplains, existing tree canopy and existing specimen or heritage trees.

### **9-16.3 Pedestrian Circulation Requirements**

All lots and uses within residential districts shall be designed to provide convenient and safe access for pedestrians through the use of sidewalks, trails and landscaping. The main entrances of buildings shall be oriented to the public sidewalk to an equal or stronger degree than to the driveway or garage.

### **9-16.4 Garages**

Garages which serving single family detached dwellings shall be the same or smaller in height and bulk than the main dwelling. Garage entrances shall be set back a minimum of 12 feet behind the front line of the dwelling.

## **9-17 Steep Slopes**

Development on steep slopes shall be designed to minimize grading and off-site impacts, including erosion and sediment on other properties and the Town's stormwater systems. No

building or structure, nor any land disturbing activity to establish such building or structure, shall be located on a steep slope as defined in Article 12, except as may be permitted by this section. Nothing in this section shall prevent the following from being located on steep slopes where necessary to meet other zoning or subdivision requirements, or to provide for public safety and connections:

- a. unimproved portions of lots,
- b. open space,
- c. public rights-of-way,
- d. retaining walls, or
- e. the installation of utilities and other services

9-17.1 Where slopes appear to be evident from topographic information available to the public and to the Planning Director, applicants shall provide slope calculations that clearly show the extent and ratio of slopes with applications for land disturbance permits, site development plans, and subdivisions. In evaluating proposals where grading and development is proposed on slopes of twenty-five percent (25%) or greater, the Planning Director, in consultation with the Town's Engineer, Erosion and Sediment Control Administrator, Stormwater Administrator, and where applicable, the Subdivision Agent, shall consider the following factors:

- 9-17.1.1 The extent in terms of cubic volume (cut and fill) of grading proposed to accommodate this development;
- 9-17.1.2 Whether the soils are particularly prone to erosion and likely to be subject to accelerated erosion rates due to alteration of the natural topography and disturbance or removal of existing ground cover;
- 9-17.1.3 Whether the proposed placement of buildings relates to the contour lines and natural form of the terrain and seeks to retain these natural features of the site. Development on steep slopes shall be designed to minimize grading;
- 9-17.1.4 Whether adequate protective measures are provided for steep slopes that are graded or temporarily denuded of existing ground cover, including the use of terracing, retaining walls, replanting or supplemental planting with suitable vegetation, or a combination of these methods, to reduce excessive runoff and soil erosion, provided further that provisions for the maintenance of and responsibility for any structural slope control is provided for in a manner deemed acceptable to the Planning Director and, where applicable, the Subdivision Agent;
- 9-17.1.5 Whether adequate protection exists for structures and properties that lie below the steep slopes in case of slope failure or excessive runoff and sedimentation; and
- 9-17.1.6 Whether the design of the proposed development uses other innovative design techniques that might eliminate or reduce the need for grading and/or development on steep slopes.



## 9-18 Telecommunications Facilities

### 9-18.1 Use Regulations for Telecommunications Towers.

The purpose of these provisions is to establish requirements for the siting of towers and antennas and to: (i) avoid the location of towers in residential areas and minimize the total number of towers and tower sites throughout the Town; (ii) encourage the joint use of new and existing tower sites; (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (iv) encourage users of towers and antennas to configure or camouflage them in a way that minimizes adverse visual impact of the towers and antennas; and (v) determine adequate sites for the provision of telecommunication services with minimal negative impact on the resources of the Town.

### 9-18.2 Applicability.

9-18.2.1 District location and height limitations. The requirements set forth in this section shall govern the location and height of all telecommunications towers and antennas within the Town. All towers or antennas shall also comply with applicable Federal and State regulations. Amateur radio towers and antennas shall be regulated by the Town under existing State law and applicable Town regulations.

9-18.2.2 Existing structures and towers. The placement of an antenna on an existing structure such as a building, sign, light pole, water tank, or other free-standing nonresidential structure or existing municipal, utility or commercially owned tower or pole may be permitted with the approval of a special use permit so long as the height of the tower or structure is not increased and the addition of the antenna shall not add more than fifteen (15) feet in height to the structure or tower. If the use includes the placement of additional buildings or supporting equipment used in connection with the antennas, the building or equipment shall be placed within the existing structure and shall be screened from view. Existing or proposed structures shall not be altered to circumvent this provision.

### 9-18.3 General requirements

9-18.3.1 Principal or accessory use. Antennas and towers may be considered either principal or accessory uses when determining area requirements on a given parcel of land. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, and other applicable requirements, the dimensions of the entire lot shall control, even though the

antennas or towers may be located on leased areas within such lots.

- 9-18.3.2 Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing and potential future facilities that are either within the Town or surrounding jurisdictions or within five (5) miles of the border thereof, including specific information about the location, height, and design of each tower and/or antenna. Information submitted to the Town may be shared with other applicants applying for approvals or special exception permits under this provision or other entities seeking to locate towers or antennas within the Town. By sharing such information, the Zoning Administrator is not in any way representing or warranting that such sites are available or suitable for tower or antenna use.
- 9-18.3.3 A Commission Permit in accord with Section 15.2-2232 of the Code of Virginia is required for any tower or antenna prior to or in conjunction with any Special Use Permit approvals, if any, that may be required by the district regulations of this Ordinance.

#### 9-18.4 Appearance; lighting

The guidelines set forth in this section shall govern the appearance, location and installation of all towers and antennas governed by this Ordinance.

- 9-18.4.1 Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of FAA, be painted a neutral color, to reduce visual appearance and obtrusiveness and to blend in with the surrounding environment. Dish antennas and covers will be of a neutral, nonreflective color with no logos or other markings.
- 9-18.4.2 At a facility site, the design of any buildings and related structures must use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and the surrounding environment.
- 9-18.4.3 If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is the same as the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive and blend with the surrounding environment.
- 9-18.4.4 Towers shall not be artificially lighted, unless required by the FAA or other applicable governing authority. If lighting is required, the Town Council may review the available lighting alternatives in conjunction with a Special Use Permit application and approve the lighting design that would cause the least disturbance to the surrounding views and properties.

#### 9-18.5 Federal and state requirements

All towers must meet or exceed current standards and regulations of the FAA, the FCC,

and any other agency of the federal or state governments with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards as required. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. All towers and antennas constructed on property owned or leased by the federal or state government but used by non-governmental, commercial companies or operators, must comply with all requirements of the Town Zoning Ordinance.

#### 9-18.6 Building Codes

To ensure the structural and operating integrity of antennas and towers, the owner of an antenna or tower shall ensure that it, and any supporting buildings and structures, are constructed and maintained in compliance with standards contained in applicable federal, state and local buildings codes and regulations.

#### 9-18.7. Information Required.

Each applicant requesting a special use permit under this section shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals in the Commonwealth of Virginia, showing the location and dimensions of all improvements, including information concerning topography, existing vegetation, proposed clearing and grading, radio frequency coverage, tower height and antenna location requirements, setbacks, ingress/egress, parking, fencing, landscaping, adjacent uses, and other information deemed by the Town Planning Commission or Town Staff to be necessary to assess compliance with this division. Additionally the applicant shall provide actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed tower and antennas. The photograph with the simulated image shall include the foreground, the mid-ground and the background of the site.

- 9-18.7.1 An engineering report, certifying that the proposed antenna or tower is compatible for co-location when more than one user is proposed for the same tower, must be submitted by the applicant.
- 9-18.7.2 The applicant shall pay all costs associated with notifying adjoining property owners and other nearby residents by certified letter concerning the project prior to public hearings before the Planning Commission and/or, on appeal, the Town Council.
- 9-18.7.3 The applicant shall provide copies of its co-location policy. The applicant shall provide copies of propagation maps using proposed antenna tilt demonstrating that antennas and sites for possible co-locator antennas are no higher in

elevation than necessary to serve the intended area.

9-18.7.4 The applicant shall provide a report and drawings identifying its coverage area within the Town and surrounding 10-mile area.

#### 9-18.8 Factors to be Considered in Granting Special Use Permits for New Towers and Antennas

The Town Council shall consider the following factors, in addition to others herein, in determining whether to approve a Special Use Permit:

- 9-18.8.1 Height of the proposed tower: No tower shall ever exceed 199 feet.
- 9-18.8.2 Proximity of the tower or pole to residential structures and residential district boundaries, historic structures and districts, or other manmade or unique natural areas within or adjacent to the Town
- 9-18.8.3 Nature of the adjacent uses and nearby properties.
- 9-18.8.4 Surrounding topography.
- 9-18.8.5 Impact on surrounding tree coverage and foliage. Impacts shall be kept to the minimum for the installation of the facility.
- 9-18.8.6 Design of tower or pole, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- 9-18.8.7 Proposed ingress and egress.
- 9-18.8.8 Compliance with the Town's co-location policy.
- 9-18.8.9 Consistency with the Comprehensive Plan and the purposes of the zoning district of the facility and areas from which the antenna or tower will be visible.
- 9-18.8.10 Availability of suitable existing towers and other structures as provided for in Section 9-18.9 herein.

The Council may waive or modify one (1) or more of these criteria if the Council concludes that the goals of this Ordinance are better served by the facility as it is proposed by the applicant.

#### 9-18.9. Availability of Suitable Existing Towers or Other Structures.

Co-location is the preferred solution to the need for additional antennas. No new tower shall be permitted unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence to be considered in determining whether existing towers or structures cannot accommodate the applicant's proposed antenna include the following:

- 9-18.9.1. No existing towers or structures are located within the geographic area required to meet applicant's engineering and coverage requirements under the Telecommunications Act (TCA).
- 9-18.9.2. Existing towers or structures are not of sufficient height to meet applicant's engineering and coverage requirements under the Telecommunications Act

(TCA).

9-18.9.3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment and cannot be made or reconstructed to support additional antennas.

9-18.9.4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing tower or structures would cause interference with the applicant's proposed antenna.

A written statement of justification with supporting documentation is required from any applicant claiming that no existing facility can accommodate its antenna. The Town Council may use its own staff, its own consultants or other independent authorities to review and verify information submitted by the applicant.

#### 9-18.10 Setbacks.

Towers shall be set back a distance of at least one hundred (100) percent of the height of the tower from the boundaries of the property on which the tower is located.

#### 9-18.11 Security fencing.

Towers shall be enclosed by security fencing not less than six (6) feet in height and shall be equipped with an anti-climbing device.

#### 9-18.12 Landscaping.

The following requirements shall govern the landscaping surrounding towers.

9-18.12.1 Tower facilities shall be landscaped with a mix of deciduous and evergreen trees that effectively screens the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip of at least ten (10) feet wide outside the perimeter of the facility compound.

9-18.12.2 Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

#### 9-18.13 Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of two (2) years shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Zoning Administrator notifying the owner of such removal requirement. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings.

If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed per this section, the Town may require the landowner to have it removed.

## **9-19 Temporary Uses**

### **9-19.1 Permitted Temporary Uses in Commercial Districts**

Notwithstanding the specific use regulations of the individual commercial zoning districts, the following uses may be permitted on a temporary basis on property located within any commercial zoning district when such uses are in conformance with the regulations of this subsection:

- 9-19.1.1 Temporary retail sales stands limited to the primary sale of Christmas trees, Halloween pumpkins, fireworks, or merchandise sold by civic or non-profit groups and with sale of accessory items clearly secondary to the primary items. (For the purpose of this subsection the term civic or non-profit group shall include any organization which meets regularly in the Town or which has "Warrenton" or a Town location in its name, and which has demonstrated service to the Town.
- 9-19.1.2 Carnivals, festivals, fairs or similar outdoor entertainment events.
- 9-19.1.3 Outdoor retail sales events, provided that such sales shall be conducted by an existing retail business located on the same property and shall not interfere with or restrict designated access drives or parking for the existing facility.
- 9-19.1.4 Construction activities. Temporary non-residential buildings and storage of materials necessary to support on-site activities for constructing buildings and structures are permitted when located on the same parcel where the construction is taking place and when limited to the duration of the construction.

### **9-19.2 Use Restrictions**

Uses permitted under this subsection shall conform with the following regulations:

- 9-19.2.1 Temporary retail sales stands shall not operate for a period of more than thirty (30) days.
- 9-19.2.2 Carnivals, festivals, fairs or similar outdoor entertainment events shall not operate for a period of more than five (5) days for any event.
- 9-19.2.3 The uses enumerated in this subsection shall operate between 9:00 a.m. to 7:00 p.m.; provided, however, that based upon a lighting plan submitted by the applicant, the Zoning Administrator may approve additional evening hours. In no event shall such use operate after 11:00 p.m.
- 9-19.2.4 Outdoor retail sales events shall not operate for a period of more than four days

for any event.

- 9-19.2.5 All temporary uses shall be provided convenient off-street parking spaces in sufficient number for the use, as determined by the Zoning Administrator. Notwithstanding other requirements of this Chapter, such parking may be located off-site.
- 9-19.2.6 All temporary uses which include the operation of amplified sound shall adhere to the regulation set forth in Section 11-19, Noise of Chapter 11. Offenses - Miscellaneous of the Town Code.
- 9-19.2.7 A temporary use may restrict through traffic on a public right-of-way, including streets, drives in commercial areas and sidewalks, provided that the permit establishes clear limitations on such restrictions, including limits as to the number of days and hours of each day in which restrictions may apply, and that adequate alternative access ways are identified and maintained during this time period, and that emergency access is coordinated with the Zoning Administrator and Town public safety officials.
- 9-19.2.8 No structure shall exceed four hundred square feet in floor area nor be closer than thirty-feet to a public road right-of-way.
- 9-19.2.9 Entrances and exits to public roads shall be clearly marked, and located so as to provide safe access to the site.
- 9-19.2.10 Adequate on-site parking is provided for the activity intended.
- 9-19.2.11 Removal of temporary structures and all signs, materials and debris shall be guaranteed in writing and such structures shall be removed upon termination of the activity.
- 9-19.2.12 Permits shall be valid for a period not to exceed thirty consecutive (30) days unless extended by the Zoning Administrator, and each event or activity on a site shall be separated by a period of not less than thirty (30) consecutive days.

### 9-19.3 Permit and Application Requirements

A Zoning Permit shall be required for a temporary use with the exception of the uses set forth in Article 11. Application for such permit shall be made at least one week prior to the date on which the permit is to take effect. The application shall be made on a form provided by the Zoning Administrator and shall include information about the proposed use, products to be sold, signs subject to the regulations in Article 6, and related licenses and permits.

### 9-19.4 Maximum Number of Permits

During a calendar year, no more than the following number of permits shall be permitted for each parcel of land or business:

- 9-19.4.1. Temporary retail sales stands - Three permits per parcel.
- 9-19.4.2. Carnivals, festivals, fairs or similar outdoor entertainment events - four permits

per parcel.

9-19.4.3. Outdoor retail sales events - four permits per retail business.

9-19.4.4. Additional permits for temporary uses may be authorized by the Town Council.

#### 9-19.5 Public Uses Excluded

Any use located on government-owned property which is approved by the Town shall not be considered a temporary use subject to these restrictions.

#### 9-19.6 Signs

Notwithstanding other regulations governing signs in this Chapter, the Zoning Administrator may approve temporary signs for each temporary use, in accord with Article 6, which shall be displayed only during the period approved for the temporary use.

#### 9-19.7 Revocation of Temporary Permit

The Zoning Administrator may revoke a temporary permit at any time subsequent to the failure of the owner or operator of the permitted use to observe all requirements of the law with respect to the maintenance and conduct of the use, and all conditions of the permit that were designated by the Zoning Administrator when issued. Upon receipt of notice of revocation of the permit, the property owner or operator of such activity shall cease operation of the activity immediately. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this Ordinance.

#### 9-19.8 Civic or Non-Profit Organization

The operation of a temporary use by a civic or non-profit organization shall be exempt from the requirements of Section 9-19.3. Such organization or its members shall also be exempt from the requirements of Section 9-19.2 when cookies, candy, baked goods or similar small items are sold on commercial properties in areas devoted to pedestrian use.

### **9-20 Traditional Neighborhood Development Option (TND)**

#### 9-20.2 Purpose

The purpose of the Traditional Neighborhood Development Option (TND) as a supplemental use is to provide opportunities for the creation of new neighborhoods in areas of the Town for which the PUD overlay district is not applicable, but where TND features may be appropriate and would help achieve the goals of the Comprehensive Plan.



The purposes of TND provisions for supplemental uses are the same as the purposes for such provisions as an option in the PUD District, set forth in Article 3, Section 3-5.2.11, as follows:

- Provide opportunities for the creation of new neighborhoods that have the desirable qualities of the Town's older neighborhoods that were developed before the late 20th century. These neighborhoods feature a mix of land uses and building types, closely linked by an interconnected network of streets that are framed by buildings, and thus comfortable for pedestrians.
- Provide optional provisions is to allow a flexible set of land use and design regulations that will allow traditional neighborhoods to be built subject to Town review and approval through the Special Use Permit process.
- Allow residents to carry out many of life's activities within their neighborhood, including working, shopping, education and recreation.
- Provide a range and mix of land uses and dwelling types.
- Provide a transportation system that provides safe and convenient movement for all forms of traffic, including motor vehicles, pedestrians and bicycles.
- Provide a system of civic spaces including parks, squares and public structures to create a sense of community.
- Provide a strong sense of identity to the neighborhood by creating public streets and outdoor spaces that are convenient for people to be in and travel through.

#### 9-20.2 Applicability

TND provisions may be used within any district in which such an option is listed as a permissible use subject to Special Use Permit approval.

#### 9-20.3 Standards

The development standards for TND development are as provided for in Article 3, Section 3-5.2.11. In no case, however, shall the TND provisions allow the applicant to exceed the overall density that is otherwise permitted in the underlying zoning district.

### 9-21 Utility Lots

**Provisions for Modifying Area Regulations.** The Town Council may approve, in conjunction with the approval of a Special Use Permit, the waiving of the minimum area regulations for installation of treatment plants, water storage tanks, major transmission lines or pipelines, pumping or regulator stations, communication towers, storage yards and substations and cable televisions facilities and accessory buildings, but only in accordance with the following:

1. Such lot has not been reduced in width or area since the effective date of this Ordinance to a width or area less than required by this Ordinance.
2. It shall be demonstrated that development of the subject lot will not have any deleterious effect on the existing or planned development of adjacent properties.
3. Such modification shall be approved only if the remaining provisions of this Ordinance can be met.
4. In no case shall any building be located closer to any lot line than a distance equal to the height of the building, as measured to its highest point.
5. If the lot is accessed by a private access way, a permanent easement shall be established to guarantee access to the utility.
6. The lot area is sufficient to operate the utility.

## **9-22 Yard and Garage Sales**

Yard or garage sales for disposal of used household items, shall not be held more frequently than once a year on the same lot, shall not be conducted for more than three (3) consecutive days total, and shall include items assembled only from the household of the site and/or its adjoining neighbors.

## **9-23 Massage Therapy, Establishment of Provisions for Therapists and Businesses**

### **9-23.1 General Provisions**

The following words and phrases, when used in this Chapter shall, for the purpose of this Chapter, have the meanings set forth below except in those instances where the context clearly indicates a different meaning:

*Client* means any person receiving a massage from a massage therapist who has been compensated for administering the massage.

*Disqualifying offenses* means offenses which disqualify an applicant from obtaining a permit pursuant to this Chapter or, if the offender already holds a permit, which mandate revocation of the permit. Disqualifying offenses are:

- 9-23.1.1 Conviction, plea of nolo contendere or a forfeiture on a charge of violating any provision of §§ 18.2-346, 18.2-347 through 18.2-349, 18.2-355 through 18.2-358, 18.2-361, 18.2-368, 18.2-370, 18.2-370.1, 18.2-371, 18.2-386.1 or 18.2-387 of the Code of Virginia, which laws relate to sexual offenses, or any provision of an ordinance of the Town or a law or ordinance of another jurisdiction which prohibits the same conduct, within the past ten (10) years.

9-23.1.2 Conviction, plea of nolo contendere or a forfeiture on a charge of violating any provision of this Chapter, or on a charge of violating a similar law in any other jurisdiction, within the past five (5) years.

9-23.1.3 Making a false statement on a permit application.

9-23.1.4 Erogenous *areas* means the genitals and the nipples and areolae.

*Massage* means the *treatment*, for compensation, of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body.

*Massage establishment* means any fixed place of business where a massage is administered to a client.

*Massage therapist* means any individual certified as a massage therapist by the Board of Nursing of the *Commonwealth* of Virginia.

*Out-call* massage means any massage administered for compensation at a location other than at a massage establishment.

*Town* means the town of Warrenton government.

#### 9-23.1.1 Exclusions

The provisions of this Chapter do not apply to the following massages, and such massages are expressly excluded from the requirements of this Chapter:

- (a) A massage administered only to the scalp, face, neck, shoulders, arms, hands, and/or the feet.
- (b) A massage of the upper body while the client is fully clothed and seated in a chair.
- (c) A massage administered in a hospital or medical clinic or in the office of a physician, chiropractor, osteopath or physical therapist licensed by the Commonwealth of Virginia.
- (d) A massage administered in a nursing home, convalescent care facility, assisted living facility, progressive care facility or life care facility.
- (e) A massage administered by a physician, chiropractor, osteopath, physical therapist or nurse, licensed by the Commonwealth of Virginia, in any

location.

- (f) A massage administered at an organized public event, such as a health fair or sporting event, which is open for participation or viewing by the general public.
- (g) A massage administered at a school which offers a massage therapy program that has received programmatic approval from the Virginia Board of Education, Office of Proprietary Schools, or that has been certified or approved by the Virginia Board of Education, Office of Proprietary Schools or the Virginia State Council of Higher Education; provided, however, that this exclusion applies only if the individual administering the massage is a student enrolled at the school and receives no compensation for doing so.

## 9-23.2 Massage Therapist Permit

### 9-23.2.1 Permit required

- (a) It is unlawful for any person, operator or manager of any massage parlor establishment to offer or administer a massage in Town of Warrenton unless he or she has a valid massage therapist permit issued by the town.
- (b) It is unlawful for the owner, operator or manager of any massage establishment to allow any person who does not have the permit required by this section to administer any massage in the establishment.
- (c) The Town of Warrenton shall not issue a massage therapist permit to any person, operator or manager of any massage parlor establishment who is not certified by the Board of Nursing of the Commonwealth of Virginia as a massage therapist.

### 9-23.2.2 Permit application, duty to update

Each application for a massage therapist permit shall be upon a form prepared by the town. The applicant shall provide full answers to all questions on the application under oath. The completed application shall contain the following information, as well as other information which the town deems necessary to properly evaluate the application:

- (a) The applicant's full name, names by which the applicant previously was known, date and place of birth, and current residential and business

addresses and telephone numbers.

- (b) A copy of the applicant's massage therapist certification from the Board of Nursing of the Commonwealth of Virginia.
- (c) The applicant's personal characteristics, such as height, weight, eye color, hair color, sex and race.
- (d) The names and addresses of all massage establishments where the applicant has been employed as a massage therapist within the past three years.
- (e) Whether the applicant currently holds or previously held a permit or license to offer or administer massages anywhere in Virginia or in any other state. If the applicant holds or has held any such permit or license, the applicant shall provide the license or permit number and the identity of the issuing authority, and whether such permit or license has ever been revoked or suspended and the reason therefore.
- (f) The applicant's criminal record, if any, other than misdemeanor traffic violations or traffic infractions, a complete set of the applicant's fingerprints which shall be taken, a consent form allowing the Warrenton Police Department to obtain a search of the Central Criminal Records Exchange, and an investigation fee in the amount established by the Virginia State Police for conducting the records search.
- (g) Three full-face and one profile photograph.
- (h) The application fee of \$50. The fee is in addition to any business or occupation license tax imposed by the town and any other taxes or fees which may be required to engage in the business. During the term of the permit, each person to whom a massage therapist permit is issued under this Section must report to the town any change in status.

#### 9-23.2.3 Issuance or denial

- (a) The Zoning Administrator shall act upon the application for a massage therapist permit within thirty days (30) days from the date the Town receives the application.
- (b) If the Zoning Administrator determines from the information contained in the permit application and from the Warrenton Police Department's investigation that the applicant has committed no disqualifying offenses

and that the applicant is otherwise qualified under this Chapter to administer massage therapy in the town, the Zoning Administrator shall issue the permit. Each permit issued by the town shall be the property of the town of Warrenton and it shall be returned to the town in the event the permit is suspended or revoked. The permit must be returned within 7 days.

- (c) If the town determines from the information contained in the permit application and from the Warrenton Police Department's investigation that the applicant has committed one or more disqualifying offenses or is otherwise unqualified under this Chapter to administer massage therapy in the town, the Zoning Administrator shall deny the application.
- (d) If an application is denied, the Zoning Administrator shall provide the applicant with written notice setting forth the grounds for the denial. Any appeal shall be filed by the applicant within thirty (30) days after the applicant receives the notice and shall specify the grounds for appeal. An appeal hearing shall be held within sixty (60) days after the appeal is filed.

#### 9-23.2.4 Term

A massage therapist permit shall be valid for one (1) year from the date of issuance, unless sooner suspended or revoked. Within thirty (30) days before the expiration date, a permitted massage therapist may apply for a new permit.

#### 9-23.2.5 Validity of permit dependent upon validity of state certification

The validity of a massage therapist permit issued under this Chapter is dependent upon the validity of the state certification as a massage therapist. Suspension of a massage therapist's certification by the Commonwealth of Virginia shall result in the automatic suspension of the permit issued under this article. Revocation of a massage therapist's certification by the Commonwealth of Virginia shall result in the automatic revocation of the permit issued under this article. Automatic suspensions and revocations are not subject to the appeal procedures established in § 28.1-5-3.

#### 9-23.2.6 Not transferable

Massage therapist permits are not transferable.

#### 9-23.2.7 Permit display

Every person to whom a massage therapist permit has been granted shall display the permit while in a massage establishment.

### 9-23.3 Massage Establishment Permit

#### 9-23.3.1 Permit required

It is unlawful for any person to own or operate a massage establishment in the Town of Warrenton unless he or she has a valid massage establishment permit issued by the town.

#### 9-23.3.2 Permit application, duty to update

Each application for a massage establishment permit shall be upon a form prepared by the town. The applicant shall provide full answers to all questions on the application under oath. The completed application shall contain the following information, as well as other information, which the Zoning Administrator deems necessary to properly evaluate the application:

(a) *Full application process.*

- (1) A description of the facilities and services to be available on the premises of the proposed establishment.
- (2) The location and mailing address of the establishment.
- (3) The name under which the establishment will operate.
- (4) The applicant's full name, names by which the applicant previously was known, date and place of birth, incorporation or organization, and current residential and business addresses and telephone numbers, as applicable. If the applicant is a privately-held corporation or company, it must supply the information for the corporation or company, each officer and each director. If the applicant is a publicly-held corporation, it must supply the information for the corporation and for the officer or agent who will have responsibility for the daily operations of the establishment. If the applicant is a partnership, it must supply the information for the partnership and for each partner.
- (5) Whether the applicant currently holds or previously held a permit or license to operate a massage establishment or to administer massages anywhere in Virginia or any other state. If the answer is affirmative, the license or permit number, the identity of the issuing authority and whether such permit or license has ever been

revoked or suspended and the reason therefor. If the applicant is a privately-held corporation or company, it must supply the information for the corporation or company, each officer and each director. If the applicant is a publicly-held corporation, it must supply the information for the corporation and for the officer or agent who will have responsibility for the daily operations of the establishment. If the applicant is a partnership, it must supply the information for the partnership and for each partner.

- (6) The criminal record, if any, other than misdemeanor traffic violations or traffic infractions, of the applicant and a consent form allowing the Warrenton Police Department to obtain a search of the Central Criminal Records Exchange. If the applicant is a privately-held corporation or company, it must supply the information for each officer and each director. If the applicant is a publicly-held corporation, it must supply the information for the officer or agent who will have responsibility for the daily operations of the establishment. If the applicant is a partnership, it must supply the information for each partner. Each application shall be accompanied by an investigation fee in an amount equal to the fee established by the Virginia State Police for conducting a records search multiplied by the number of persons making disclosures and providing consent forms.
  - (7) The name of the operator or manager of the massage establishment. If the operator or manager of the massage establishment is not an applicant, then the operator or manager must provide the information required in this section relative to the applicant.
  - (8) The application fee of \$75.00. This fee is in addition to any business or occupation license tax imposed by the Town, and any other taxes or fees which may be required to engage in the business.
- (b) *Streamlined application process* - If any individual required by Subsection (a) to disclose information holds a massage therapist permit issued under this Chapter, that individual may supply, in lieu of the information required by Subsections (a)(4), (a)(5) and (a)(6), his or her name and permit number and either a statement that no changes have occurred since he or she completed the application for the massage therapist permit or a list of any such changes.



- (c) During the term of the permit, the applicant must report to the Zoning Administrator any change in the information required in the permit application within twenty-one (21) days of learning of the change.

#### 9-23.3.3 Issuance or denial

- (a) The Zoning Administrator shall act upon the application for a massage establishment permit within sixty (60) days from the date the town of Warrenton receives the application.
- (b) If the Zoning Administrator determines from the information contained in the permit application and from the Warrenton Police Department's investigation that the proposed establishment will meet the requirements of this Chapter, that neither the applicant, nor any officers or directors thereof, or its operator or manager, have committed any disqualifying offenses and are otherwise qualified under this Chapter to engage in such business in the Town, the Zoning Administrator shall issue the permit. Each permit issued by the Zoning Administrator shall be the property of the Town of Warrenton and shall be returned to the town in the event it is suspended or revoked. Permits must be returned within 7 days.
- (c) If the Zoning Administrator determines from the information contained in the permit application and from the Zoning Administrator's investigation that the proposed establishment will not meet the requirements of this Chapter, or that the applicant, an officer or director thereof, or an operator or manager have committed one or more disqualifying offenses or are otherwise unqualified under this Chapter to engage in such business in the Town, the Zoning Administrator shall deny the application.
- (d) If an application is denied, the town shall provide the applicant with written notice setting forth the grounds for the denial. Any appeal shall be filed by the applicant within thirty (30) days after an applicant receives the notice and shall specify the grounds for appeal.

#### 9-23.3.4 Term

A massage establishment permit shall be valid for one (1) year from the date of issuance, unless sooner suspended or revoked. Within sixty-five (65) days before the expiration date, a permitted massage establishment may apply for a new permit.

#### 9-23.3.5 Permit transfer or change of location

- (a) Massage establishment permits are not transferable from one (1) person to another, whether by sale, lease, merger or otherwise.
- (b) If a privately-held corporation or company or a partnership holds a massage establishment permit issued under this Chapter, the transfer of more than ten percent (10%) of the ownership of the corporation, company or partnership to a person or entity who was not an owner when the application was made shall cause the automatic expiration of the permit. The expiration shall occur on the date of the transfer.
- (c) A change of location of a massage establishment may be approved by the Director and the establishment's permit transferred to the new location, provided the establishment continues to comply with all applicable provisions of this Code.

#### 9-23.3.6 Permit display

Every person to whom a massage establishment permit is issued shall display the permit in a conspicuous place in the massage establishment, so that it may be readily seen by persons entering the premises.

### 9-23.4 Minimum Standards

#### 9-23.4.1 Compliance with Zoning Ordinance

Massage establishments shall be located in a proper zoning district, as specified in the Town of Warrenton Zoning Ordinances.

#### 9-23.4.2 Requirements for massage establishments

- (a) All massage establishments shall comply with all applicable provisions of the Virginia Uniform Statewide Building Code, including those provisions relating to lighting, ventilation, toilet facilities and accessibility.
- (b) Non-disposable tools of the trade shall be disinfected after use upon one client.
- (c) Walls, ceilings, floors, bathrooms, and all other physical facilities for the establishment shall be kept in good repair and maintained in a sanitary condition.
- (d) All towels and tissue, all sheets or other coverings shall be used singularly for each client and discarded for laundry or disposal immediately after use.

#### 9-23.4.3 Cleanliness of therapists

Every massage therapist shall cleanse his or her hands thoroughly with soap and hot running water immediately before administering each massage.

#### 9-23.4.4 Massaging clients with skin inflammation or eruptions prohibited

No massage therapist may knowingly massage any client infected with any fungus or other skin infections, nor shall service be performed on any client exhibiting skin inflammation or eruptions, unless a licensed physician certifies that a client may be safely served.

#### 9-23.4.5 Massaging clients while therapist ill prohibited

No massage therapist may massage any client when the massage therapist is suffering from any communicable disease transmitted by skin-to-skin contact or through the secretions of the respiratory tract, including, but not limited to, infectious tuberculosis, measles, meningococcal disease, mumps, chicken pox and Hemophilus Influenzae Type b, or from any skin lesions or disease on the hands or arms, or any nasal or ear discharge or inflamed eyes.

#### 9-23.4.6 Massaging, touching, exposing erogenous areas

- (a) It is unlawful for any person, in a massage establishment or during the course of an out-call massage transaction, to touch, with any part of his or her body or with any object, another person's clothed or unclothed erogenous area.
- (b) It is unlawful for any person, in a massage establishment or during the course of an out-call massage transaction, to fail to conceal his or her erogenous areas with a fully opaque covering while in the presence of others.
- (c) It is unlawful for any person owning, operating or managing a massage establishment or out-call massage business to knowingly cause or allow, in or about such massage establishment or as part of an out-call massage business, any agent, employee or any other person under his control or supervision to perform any act prohibited by this section.

#### 9-23.4.7 Restrictions on out-call massage

Out-call massage may be administered only in the residence of the client.

"Residence" means one (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. "Residence" shall not include a motel, hotel, or other accommodation used for transient occupancy.

## 9-23.5 Penalties and Enforcement

### 9-23.5.1 Violations of Chapter

Any person violating any provision of this Chapter shall be guilty of a Class 1 misdemeanor.

### 9-23.5.2 Right of entry to enforce Chapter

The Planning Director, the chief of police, the zoning administrator and the building official, or their duly authorized agents, are hereby authorized to enter, examine and survey, during business hours, any premises in the town of Warrenton for which a massage establishment permit has been issued pursuant to this Chapter for the purpose of inspection and to enforce the provisions of this Chapter. The town shall inspect each massage establishment at least one (1) time per year to determine whether it is being operated in compliance with this Chapter. This section shall not restrict or limit the right of entry vested in any law enforcement agency.

### 9-23.5.3 Revocation or suspension of permits

- (a) Grounds for revocation of any permit granted under this Chapter exist if the permittee, operator or manager has committed any disqualifying offense or repeatedly has had a permit issued under this Chapter suspended. If the permittee is a privately-held corporation or company, grounds for revocation exist in the event of such conduct by the corporation or company or by any officer or director. If the permittee is a publicly-held corporation, grounds for revocation exist in the event of such conduct by the corporation or by any officer or agent who has responsibility for the daily operations of the establishment. If the permittee is a partnership, grounds for revocation exist in the event of such conduct by the partnership or any partner. If the town believes that grounds for revocation of a permit exist, the town shall give the permittee written notice enumerating the grounds and declaring the town's intent to hold a hearing at a specified date and time to determine whether revocation is warranted. The notice shall be mailed, by certified mail, to the permittee's

last known address, at least ten (10) days prior to the date set for the hearing. At the hearing, the permittee may be represented by counsel, may cross-examine witnesses and may present evidence in his favor. If the town finds that any ground for revocation in fact exists, the Zoning Administrator shall revoke the permit. The town shall issue a written notice of his findings and decision within ten (10) work days of the hearing. Any appeal shall be filed by the permittee within thirty (30) days after a permittee receives the notice and shall specify the grounds for appeal. The Zoning Administrator's action remains in effect during the pendency of the appeal. The Town of Warrenton Board of Zoning Appeals shall hold an appeal hearing no later than sixty (60) days after the appeal is filed.

- (b) Grounds for suspension of any permit granted under this Chapter exist if the permittee has failed to comply with any provisions of this Chapter other than those which mandate revocation. If the permittee is a privately-held corporation or company, grounds for suspension exist in the event of such failure to comply by the corporation or company or by any officer or director. If the permittee is a publicly-held corporation, grounds for suspension exist in the event of such failure to comply by the corporation or by any officer or agent who has responsibility for the daily operations of the establishment. If the permittee is a partnership, grounds for suspension exist in the event of such failure to comply by the partnership or any partner. The Zoning Administrator or any person with a right of entry under § 28.1-5-2 may order the suspension of the permit with or without notice. The order shall set forth the reasons for the suspension. A copy of the suspension order shall be hand delivered or mailed by certified mail to the permittee's last known address. The Zoning Administrator may end a suspension at any time if the reason for the suspension is corrected. Any appeal shall be filed by the permittee within thirty (30) days after a permittee receives the suspension order and shall specify the grounds for appeal.

## **9-24 Mobile Food Vendors**

### **9-24.1 Purpose**

The purpose is to provide regulations for mobile food vendors in order to provide economic development and entrepreneurial opportunities, while protecting the public health, safety, and welfare and mitigating fiscal impacts to existing brick and mortar restaurants and related businesses.

The Town of Warrenton shall administer a program to receive, review and approve permit applications for Mobile Food Vendors that desire to vend in designated zoning districts. The

associated policy and procedures document sets out guidelines for the permitting process for vending in designated Mobile Food Vendor areas in specified zoning districts. This policy does not cover participation in Special Events (such as, festivals). To participate in Special Events, all vendors must comply with the rules and regulations laid forth in the Special Event permit provided to the event organizer.

#### 9-24.2 Allowable Zoning Districts

Mobile Food Vendors are allowable in public parks and in any district that allows restaurant uses, provided these Vendors and their equipment shall meet all location and operational requirements outlined in this ordinance, Article 9-24.3.

#### 9-24.3 Operation Requirements

Mobile Food Vendors may operate on private property within the Industrial (I) zoning district from an existing, improved parking-area with the expressed, written consent of the property owner. All operations, on public or private property, must comply with the Mobile Food Vendor policy and procedures document.

##### 9-24.2.2 Operation on Public Property

1. Mobile Food Vendors may operate on private or public property from an existing, improved parking area with expressed written consent of the property owner.
2. The entire operation of a Mobile Food Vendor must fit in the allowed public parking area. Vehicles that do not fit within the designated parking area will not be permitted to operate in the program.
3. Each Mobile Food Vendor parking area shall not be within 10 feet of an intersection, crosswalk, driveway, bus stop, taxi stand or handicapped parking space. Nor will any Mobile Food Vendor be situated in any part of a designated loading zone or fire lane.
4. Mobile Food Vendors are to comply with the vending hours between 8:00 AM and 9:00 PM, or lesser time as administered by the Planning Director, and not leave Mobile Food Vendor vehicles beyond the allowable vending hours. Mobile Food Vendor vehicles left beyond these hours are subject to towing.
5. The Town may adjust these sites in cases of construction or other circumstances, as approved by the Planning Director.
6. The Town may consider additional locations based on demand and impact,

as approved by the Planning Director.

7. There shall be a five (5) foot setback from right of ways and entrance drives.
8. There shall be a minimum three (3) foot clearance around the food vending vehicle for safety.
9. There shall be accessibility to restrooms.
10. There shall be a minimum distance of:
  - (a) 100 feet from any residential district or district that does not allow restaurant uses;
  - (b) 50 feet from any existing restaurant or provide a letter of “no objection” from the restaurant as to a closer location.
  - (c) 25 feet from any other permitted Mobile Food Vendor.

#### 9-24.4 Program Fees and Operation Costs

Participants are subject to annual program and business license fees as specified in the Mobile Food Vendor policy and procedures document, including routine collection of meals and consumption taxes. Mobile Food Vendors are required to comply with all other applicable local, state and federal taxes including remittance of sales tax in accordance with state law. Fees are subject to change with Town Council approval.

#### 9-24.5 Rules and Regulations

9-24.5.1 Allowable vehicles include, but are not limited to, Mobile Food Vendor vehicles from which service is provided to customers through the side of the vehicle or trailer.

9-24.5.2 Mobile Food Vendors are required to maintain minimum Mobile Food Vendor vehicle standards for continued participation in the program. Standards include, but are not limited to, the following:

1. Floors, walls, ceilings and food contact surfaces must be easily cleanable (i.e. stainless steel, aluminum or other approved non-corrosive and non-rusting metal).
2. Surfaces must be waterproof, smooth, readily cleanable, and resistant to dents and scratches.
3. All outer openings must be screened and/or sealed when not operating.
4. Serving areas on top of carts and truck serving windows may be made of

whatever material is appropriate for food preparation: metal, tile, synthetic countertop, etc.).

5. There should be no structural defects (i.e. holes, openings, rust, seams or broken parts).
6. The business name should be affixed to the back or side of the operation and clearly visible to customers.
7. Mobile Food Vendor vehicles must be sized to fit into designated parking areas.
8. Shall not sell anything other than food and nonalcoholic beverages, with the exception that up to 15% of the business may be accessory items related to the business such as hats, mugs, decals, tee shirts, and the like.
9. Shall not place or utilize any signage not permanently affixed to the vehicle.
10. Shall not display any balloons or windblown signs or attach any such items to the vending vehicle.
11. Shall not display any advertisements for other businesses.
12. Shall not cause any liquids to be discharged from the mobile food vehicle.
13. Shall provide proper receptacles for trash and waste disposal during operation and remove all trash and dispose of all waste as part of site cleanup.
14. Shall not be allowed to be in place for more than four (4) hours.
15. Shall post permit so it can be seen from the outside of the mobile food vehicle.
16. Shall not receive any deliveries at point of sale site.
17. Shall not be left unattended while in a vending location.
18. Shall be removed from the lot when not in operation.

9-24.5.3 If any area is closed for an emergency or other permitted activity, no vendors will be allowed to set up. Areas will be monitored for compliance and any violations could result in a permit being suspended or revoked.

9-24.5.4 The entire operation must be fully mobile. Generators should be whisper or quiet models that do not present a nuisance.

#### 9-24.6 Prohibited Items

9-24.6.1 Radio or sound-amplifying devices;



9-24.6.2 Flashing signs or signs that move or give the appearance of moving;

9-24.6.3 Sign, menu board, tables, chairs, waste receptacles or other objects in the roadway or sidewalk;

9-24.6.4 Water, sewer, gas or electrical connections to a building.

#### 9-24.7 Refuse Control

9-24.8.1 Participants must ensure that no pollutants, including waste/grease, liquid wastes, gray water garbage/debris, and other materials are discharged to the Town's storm drain system (including gutters, curbs, and storm drains).

9-24.7.2 A waste receptacle shall be provided for the use of customers and shall be affixed to the Mobile Food Vendor Vehicle or be placed on the ground near the Mobile Food Vendor, so long as they meet Article 9-24.7.3. All trash must be removed from the site by the Mobile Food Vendor. Use of Town waste receptacles by Mobile Food Vendors is prohibited.

9-24.7.3 Participants are required to pick up, remove and dispose of all garbage, refuse or litter consisting of foodstuffs, wrappers, and/or materials dispensed from the vending vehicle and any residue deposited on the street from the operation thereof, and otherwise maintain in a clean and debris-free condition the entire area within a 25-foot radius of the location where Mobile Food Vending is occurring. Assistance in cleaning any public eating spaces is appreciated.

#### 9-24.8 Violation and Penalties

Any violation of this Article and the penalties for all such violations shall be as set forth in the Zoning Ordinance, in accord with Article 11 of this Ordinance and §15.2-2286 (A) (5) of the Code of Virginia.

### **9-25 Mixed-Use Development Option**

The mixed-use development option is created within the Commercial District to allow a mixture of uses when consistent with the Comprehensive Plan. The mixed-use option is intended to encourage development in a creative and integrated manner that encourages pedestrian walkability, shared open spaces and an alternative form of housing within the Town.

#### 9-25.1 Mixed-Use Regulations

A. A mixed-use development, that includes residential use only structures, shall contain a minimum of five (5) acres. Town Council may approve a mixed-use development

utilizing residential use only structures on parcels less than five (5) acres when approved as part of the Special Use Permit application which includes a concept plan detailing the integration of the different uses.

B. Residential Density

1. Residential uses shall not exceed 1 dwelling unit per 500 gross square feet of non-residential floor space within the mixed-use development unless a higher residential density is approved by Town Council through a Special Use Permit application and is in conformance with the Comprehensive Plan; and
2. Residential density shall not exceed five (5) dwelling units per acre unless a higher density amount is approved by Town Council as part of the Special Use Permit and is in conformance with the Comprehensive Plan.
3. Residential units located on the first floor of a mixed-use structure shall not front the street or drive aisle.

C. Density Bonus

In order to qualify for the density bonus, the mixed-use development shall offer no less than 10% of the total number of residential units as affordable housing. Developments that qualify as affordable housing shall be entitled to a density bonus of up to 100% of the density allowed by Section 9-25.1.B.2 above. The required number of affordable dwelling units needed to qualify shall be based on the total number of proposed units including those additional units allowed as a density bonus. The required number of affordable housing units shall be rounded up when calculated. The affordable housing units shall meet the description found under Section 9.3.1 of the Zoning Ordinance.

Dwelling units designated as affordable housing units shall be built with an exterior appearance similar to other housing units and shall be interspersed with other, market-rate dwelling units in the development. Lots and units for the provision of affordable housing shall be specifically identified on all plans and plats as required by the Zoning Ordinance and Subdivision Ordinance.

D. Phasing

1. No more than ten (10) residential dwelling units may be constructed prior to the construction of at least 5,000 square feet of non-residential floor space. Once the first 10 units are constructed, no more residential units may be constructed until the required 500 gross square feet of non-residential floor space (per dwelling unit) is in place and occupancy permits are issued for the non-residential space

E. Subject Parcel(s)

1. Mixed-use developments, utilizing stand-alone residential buildings, which involve more than a single parcel shall be:
  - a. Consolidated to achieve the required 5 acre minimum prior to the approval of a Site Development Plan; or
  - b. Subject to the Special Use Permit review process when:
    1. Parcels subject to the mixed-use development are to remain separate; or
    2. Parcels subject to the mixed-use development project are under different ownership.

F. Access and Parking:

1. New streets shall generally be laid out to establish a street grid connecting into and through adjoining properties.
2. Newly created off-street parking areas shall not be provided between a structure and the public right-of-way. Parking may also be located beside the structure if;
  - a. necessary to meet minimum parking requirements; and
  - b. buildings occupy more of the street frontage than is occupied by the parking area; and
  - c. the parking is set back at least 10 feet behind the building façade; and
  - d. a 3 foot wall, in combination with a dense hedge, is constructed in front of the parking area to screen the parking and create a hard edge to continue the building face.

G. Integration:

1. Pedestrian and bicycle routes shall be provided to connect all uses, so that pedestrians and bicyclists can move comfortably and safely from any location within the Mixed Use Development and to adjacent properties.
  - a. Pedestrian traffic shall be accommodated through the provision of one (1) interior sidewalk and one (1) interior bicycle path or a combination of the two in a single fifteen (15) foot wide path. Sidewalks shall be a minimum of five (5) feet in width and paths shall be a minimum of ten (10) feet in width.
  - b. There shall be a minimum of two (2) pedestrian connections between commercial and residential uses located within the interior of the project area unless a single 15 foot wide path is utilized in conjunction with asphalt striping within vehicular travel aisles throughout the development.

- c. Bicycle traffic shall be accommodated through the provision of designated, well-marked bicycle lanes and/or paths suitable for bicycle traffic.
- d. Interior sidewalks and paths shall be well lit with shielded light fixtures spaced no more than fifty (50) feet apart.

H. Open Space

- 1. A minimum of ten (10) percent of the net development area must be designated for Parks, Squares or Other Open Space uses. Natural (undisturbed) open space shall count toward no greater than twenty (20) percent of the total required.
- 2. The mixed-use development shall contain at least one (1) park, square or common open space at least 500 square feet in size, not to include narrow strips of land. A maximum of 50% of the common area shall be occupied by commercial uses (i.e. tables and seating).
- 3. No residential dwelling unit shall be located more than 500 feet from the boundary of a park, square or common open space.

I. Lot and Yard Regulations

Use	Minimum Lot Size (sq. ft.)	Minimum Lot Frontage (at front setback)	Maximum Lot Coverage (impervious surfaces)
Residential Use Only Structures *	5 acres	50 ft.	85%

\*As part of a mixed-use development. Residential lots shall meet the Lot and Yard Regulations for the RMF District

**Front Setbacks**

Residential Use Only Structures shall meet the setback requirements of the Residential Multifamily (RMF) District found in Section 3-4.5.4 when individual lots are proposed. Setbacks may be modified as part of the Special Use Permit review.

<b>Side Yard Setbacks</b>		<b>Rear Yard Setbacks</b>	
Adjacent to any C or I District	Adjacent to any R District	Adjacent to any C or I District	Adjacent to any R District
10 feet	25 feet	15 feet	25 feet

\* Accessory buildings over fifteen (15) feet in height shall be at least ten (10) feet from any lot line.

\*\* Interior single family attached dwelling lots shall provide a zero (0') side yard setback.

\*\*\* Bay windows and balconies may extend into required setbacks but shall be located no closer than 5 feet from the property line.

### **Building Height Regulations**

Residential Use Only Structures shall be limited to thirty-six feet (36') in height when located adjacent to or directly across a right-of-way from a residential district. Depending on the Character District, Residential Use Only structure height may be increased in accordance with the Comprehensive Plan when the structure is setback a minimum of one foot for every one foot in height from the property line.

Mixed-use structures shall meet the height limitations listed in the C District Regulations of Article 3 of the Zoning Ordinance.

#### **J. Modifications:**

1. Modifications from the standards set forth in Section 9-25 may be approved by Town Council in conjunction with the Special Use Permit upon a determination that the intent of the Comprehensive Plan is being met.
2. A reduction in the front yard setback for any building may be approved in conjunction with Special Use Permit by Town Council provided the following findings are made:
  - a. The setback is consistent with any design guidelines or requirements established by the Comprehensive Plan; and
  - b. Sufficient area is provided to accommodate construction requirements, including drainage; and
  - c. Sufficient area is provided to accommodate a full streetscape along the street, to include sidewalks and street trees, where applicable.
3. A reduction of the setbacks from internal property lines, for any structure, may be approved in conjunction with Special Use Permit approval by Town Council subject to Building Code requirements.
4. A reduction of lot size, frontage, and coverage may be approved in conjunction with Special Use Permit approval by Town Council, subject to Building Code and Stormwater requirements.

5. A reduction of landscape buffer requirements under Article 8-8 may be approved in conjunction with Special Use Permit approval by Town Council where individual lots are proposed.

## **9-26 Data Centers**

Data Centers, as defined in Article 12, are permissible in the Industrial (I) District, subject to the following requirements.

### 9-26.1 Additional Standards

- A. Minimum Lot Size: 25 acres. Town Council may approve a data center on parcels less than 25 acres as part of the special use permit application.
- B. The data center shall utilize recycled water or air chillers, in conjunction with using recycled water, for cooling purposes. Potable water shall not be used for cooling.
- C. All electric service lines from the substation to the data center shall be placed underground.
- D. Setbacks: Per Section 3-4.12.4 (“All principal manufacturing and processing uses in industrial parks”).
  1. Town Council may approve building heights greater than 35 feet during the review of the Special Use Permit. Buildings must be setback one (1) additional foot (horizontally) from the required setback line for each additional one (1) foot (vertically) greater than 35 feet. Building heights shall be in conformance with the Comprehensive Plan.
  2. The data center building shall be setback a minimum of one-hundred (100) feet from property lines.
- E. Parking: In accordance with “Assembly or Manufacturing Uses” per Section 7-7 of the Zoning Ordinance.
- F. Building Facades:
  1. Building facades shall include at least two of the following design elements:
    - a. Change in building height;
    - b. Building step-backs or recesses;
    - c. Fenestration (25% minimum);
    - d. Change in building material, pattern, texture, or color;
    - e. Use of accent materials.

G. Mechanical Equipment:

1. Mechanical equipment shall be completely screened through the use of walls, fences or evergreen vegetation so that no part of the mechanical equipment can be seen from adjoining properties or right-of-ways.
2. All generators shall be equipped with mufflers to reduce emissions and noise.

H. Security:

1. The facility shall provide access to Town and County emergency services staff at all times.

I. Landscaping:

1. In addition to the landscape planting requirements of Article 8 of the Zoning Ordinance, any portion of the data center (including equipment) visible from a park or adjoining/across the street from a residential district shall be screened by vegetation consisting of a double staggered row of evergreen trees planted 15 feet on center. A minimum 3 foot berm planted with a double staggered row of evergreen shrubs planted 10 feet on center may be used in place of the double staggered row of evergreen trees required above.

J. Substations:

1. Substations associated with the data center shall be screened from adjacent properties and right-of-ways through the use of opaque fencing in addition to evergreen trees and shrubs.