

Chapter 50

PLANNING*

* **Cross References:** Administration, ch. 2; buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 26; utilities, ch. 74.

State Law References: Planning, subdivision of land and zoning, Code of Virginia, § 15.2-2200 et seq.; local planning commissions, Code of Virginia, § 15.2-2210 et seq.; land subdivision and development, Code of Virginia, § 15.2-2240 et seq.; zoning, Code of Virginia, § 15.2-2280 et seq.; Regional Cooperation Act, Code of Virginia, § 15.2-4200 et seq.

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ARTICLE I.

IN GENERAL

Sec. 50-1. Planning commission; board of zoning appeals.

The town planning commission and board of zoning appeals shall have the membership, organization, powers and duties provided in article II of this chapter.

(Code 1992, § 2-96)

Cross References: Boards and commissions, § 2-156 et seq.

Secs. 50-2--50-30. Reserved.

ARTICLE II.

ZONING*

* **Cross References:** Trailers and trailer parks, ch. 70.

State Law References: Zoning, Code of Virginia, § 15.2-2280 et seq.

DIVISION 1.

GENERALLY

Sec. 50-31. Introduction.

Code of Virginia, §§ 15.2-2280--15.2-2316, as amended, authorizes local governments in the commonwealth to enact zoning ordinances. Code of Virginia, § 15.2-2280 provides any locality

may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

(1) The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, floodplain and other specific uses;

(2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

(3) The areas and dimensions of land, water, and airspace to be occupied by buildings, structures and uses and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; or

(4) The excavation or mining of soil or other natural resources.

(Ord. of 6-11-1996, § 23-1)

Sec. 50-32. Purpose.

This article has been designed to:

- (1) Provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- (2) Reduce or prevent congestion in the public streets;
- (3) Facilitate the creation of a convenient, attractive and harmonious community;

(4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;

(5) Protect against one or more of the following:

a. Overcrowding of land;

b. Undue density of population in relation to the community facilities, existing or available;

c. Obstruction of light and air;

d. Danger and congestion in travel and transportation; or

e. Loss of life, health, or property from fire, flood, panic or other dangers;

(6) Encourage economic development activities that provide desirable employment and enlarge the tax base; and

(7) Implement the policies and recommendations made in the town comprehensive plan.

(Ord. of 6-11-1996, § 23-2)

Sec. 50-33. Definitions.

(a) *Usage.* For the purpose of this article, certain words and terms are defined as follows:

(1) Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.

(2) The word "building" includes the word "structure"; the word "lot" includes the words "plot" and "parcel."

(3) The word "used" shall be deemed also to include the word "erected," "reconstructed," "altered," "placed," or "moved."

(4) The terms "land use" and "use of land" shall be deemed also to include the terms "building use" and "use of building."

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

Access means a public or private right-of-way providing the ability to enter, approach, or pass to and from one area to another.

Accessory building means a building subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building.

Accessory use means a use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

Administrator means the official charged with the administration and enforcement of this article.

Alley means a public right-of-way which affords pedestrian access and a secondary means of vehicular access to the side or rear of abutting property.

All-weather surface means crushed rock, gravel, or similar surface, which shall constitute an all-weather surface.

Amendment means a change in this article and/or zoning map granted by the town council after review and comment by the town planning commission and the required public hearing.

Apartment house means a multifamily structure arranged or designed to be occupied by three or more families, each in an individual dwelling unit, and living independently of each other.

Garden apartment house means an apartment house not exceeding three stories in height, containing three or more separate dwelling units, having either common or separate entranceways on one or more lots held in single ownership having yards in common, but which may also have other joint facilities and services. The term "garden apartment house" shall not be construed to include the term "row house" or "townhouse."

Artisan and *crafter* mean a person who designs, creates, and markets items which are usually designated as handcrafted items for sale to the general public.

Automobile graveyard means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

Basement means a story partly underground and having 50 percent or more of the total exterior wall area exposed. It shall not be occupied for residential purposes until the remainder of the building has been completed. A basement shall be counted as a story for the purpose of height requirements.

Bed and breakfast and *bed and breakfast home* mean a single-family dwelling where, for compensation, lodging and breakfast are provided to registered guests only.

Block means the property bound on all sides by one side of a street or a combination of street line, railroad right-of-way, river, live stream, streambed, or any other barrier to the continuity of development.

Board means the board of zoning appeals appointed to review appeals made by individuals with regard to decisions of the administrator in the interpretation of this article.

Boardinghouse means a building where lodging, which may include meals, is provided for at least three and not more than 13 persons. A boardinghouse is to be distinguished from a hotel or motel. No provision shall be made for cooking in individual rooms or suites.

Building means a structure having a roof, supported by columns or by walls, and intended for the shelter, housing, or enclosure of any person, animal or property of any kind.

Building inspector means an official designated by the town to be responsible for administering the Virginia Statewide Uniform Building Code.

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

Cellar means a portion of a building having less than 50 percent of the total exterior wall area exposed. All portions of the total exterior wall area exposed shall be counted for the purpose of height requirements, but shall not be considered a story.

Cemetery means a place of burial of the human dead, or remains of human dead.

Circuit court means the circuit court of the county.

Clinic means an establishment where human patients who are not lodged overnight are admitted for examination or treatment by physicians or dentists.

Club, private, means those associations or organization of a fraternal or social nature, not operated or maintained for profit. This shall not include a nightclub or other institution operated as a business.

Commission means the planning commission of the town.

Common open space means an open tract or parcel of land not devoted to structures, but directly related and adjunct to a development, as herein provided.

Comprehensive plan means the comprehensive plan of the town.

Condominium means a system of separate ownership of individual dwelling units in a multiple-unit building or development in accordance with the Condominium Act, Code of Virginia, § 55-79.39 et seq., as amended. All the owners have a right in common to use the common elements of the building or development with separate ownership confined to the individual units.

Convalescent home. See *Nursing home*.

Convenience store means any establishment offering for sale food products, household items, and other goods commonly associated with such, and having a gross floor area of less than 5,000 square feet.

Coverage, building and coverage, lot, mean the percentage of the total lot area which may be occupied by all buildings, or located under projections from buildings. Parking areas or patios constructed at ground level shall not be included in the calculation of coverage.

Density means the number of dwelling units permitted on one acre of land as specified in this article.

Development means the process of erecting or causing to be erected buildings or structures on a lot.

District means a portion of the town within which, on a uniform basis, only certain uses of land and buildings are permitted as set forth in this article, and within which certain lot areas and other uniform requirements are established.

Driveway means a space or area providing access specifically designated and reserved on a lot for the movement of vehicles from one lot to another, or from a lot to a public street.

Dwelling means a building or portion thereof which is used or intended to be used exclusively for residential purposes and contains one or more dwelling units. A dwelling shall be constructed in accordance with the Uniform Virginia Statewide Building Code.

Dwelling, attached, means a dwelling having any portion of each of two walls in common with adjoining dwellings.

Dwelling, detached, means a dwelling which is entirely freestanding on a lot.

Dwelling, multifamily, means a structure originally arranged or designed to be composed of three or more dwelling units.

Dwelling, semidetached, means one of two buildings, arranged or designed as dwellings, located on abutting walls without openings, and with each building having a separate lot.

Dwelling, single-family, means a residential dwelling unit, other than a mobile home, designed for and occupied by one family.

Dwelling, two-family means a residential building containing not more than two dwelling units within the single building, with such units arranged one above the other or side by side, and such structure designed for occupancy by not more than two families.

Dwelling unit means one room or rooms connected together, constituting a separate, independent housekeeping establishment for occupancy, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. Each dwelling unit shall be constructed in accordance with the requirements of the Virginia Uniform Statewide Building Code or pursuant to regulations promulgated by the federal Department of Housing and Urban Development (HUD).

Modular unit means a manufactured transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated subelements incorporated into a structure, and containing not less than 800 square feet of residential floor area. Such units shall meet the requirements of the Uniform Virginia Statewide Building Code.

Sectional home means a dwelling made of two or more manufactured units transported to the

homesite, put on a foundation, and joined to make a single dwelling. This type of unit is included in the definition of dwelling unit. Such units shall meet the requirements of the Uniform Virginia Statewide Building Code.

Easement means a grant by a property owner of the use of his land, or a portion thereof, by another party for a specific purpose.

Family means one person, or a group of two or more persons, living together and interrelated by blood, marriage, or legal adoption, occupying a dwelling unit as a separate housekeeping unit. The persons constituting a family may also include foster children and domestic servants.

Fence means a barrier, usually made of posts and wire, boards, or masonry, intended to prevent escape or intrusion or to make a boundary. Trees, shrubbery, or other foliage do not constitute a fence under this definition.

Floodplain means sections of land which are subject to periodic flooding and inundation as defined or approved by the Federal Emergency Management Agency (formerly by the Department of Housing and Urban Development). See additional special definitions incorporated in section 50-71 pertaining to floodplain conservation.

Floor area means the floor area of a building, which is the sum of the gross horizontal areas of the floors of all buildings on the lot, such areas to be measured from the interior faces of exterior walls. Floor area includes the area of basements when used for residential, commercial, or industrial purposes, but does not include a basement or portion of a basement used for storage or housing of mechanical or central heating equipment.

Frontage means the lot width at the front yard setback line.

Funeral parlor, funeral home and mortuary mean an establishment used for human funeral services, which must include facilities on the premises for embalming, and may or may not include facilities for the performance of autopsies, other surgical procedures, or cremation.

Garage, private, means an accessory building used for the storage of vehicles by the occupants of a lot on which such building is located.

Garage, public, means an accessory building, portion of a principal building or principal buildings used only for the storage of four or more vehicles by a person other than the occupants of a lot on which such building is located.

Garden apartment house. See *Apartment house*.

Group home means a residential facility in which mentally ill, mentally retarded, or developmentally disabled persons reside with one or more resident counselors or other staff persons. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined by the Code of Virginia. Group homes of eight or less persons shall be considered residential occupancy by a single family.

Hard surface means concrete, blacktop, macadam, or a similar surface, which shall constitute a hard surface.

Health director means the director of the county department of health or his designated deputy, or a representative of the state department of health.

Height of building means the vertical distance from the established grade of the center of the front of the building to the highest point of the roof surface of a flat roof; to the deck line for a

mansard roof; to the mean height level between the eaves and ridge for hip, gable, and gambrel roofs.

Home occupation means any occupation within a dwelling and clearly incidental thereto carried on by a member of the family residing on the premises. See section 50-112.

Hotel and *motel* mean a building designed or occupied as the temporary abiding place for 14 or more individuals who are, for compensation, lodged, with or without meals, and in which no provision is made for cooking in individual rooms or suites.

Junkyard means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term includes garbage dumps and sanitary fills.

Laundromat means a building or part thereof where clothes or other household articles are washed or dry cleaned in self-service machines.

Laundry means a building or part thereof, other than a laundromat, where clothes and other articles are washed, dried, and ironed or dry cleaned.

Lodge, private. See *Club, private.*

Lot means a parcel of land occupied or to be occupied by a building and its accessory buildings or by a use and its accessory uses, together with such open spaces as are required under this article for a lot in the zone in which such lot is situated, and having its principal frontage on a street which has been approved by the town as acceptable into the street system and is maintained by the state department of transportation (VDOT) or the town.

Lot, corner means a lot abutting on two or more streets at their intersection.

Lot depth means the average of the horizontal distances between front and rear lines of a lot measured perpendicular to the street line.

Lot, interior, means any lot other than a corner lot.

Lot of record means a lot which has been recorded in the office of the clerk of the circuit court of the county.

Lot, through, and *double-frontage lot* mean a lot, other than a corner lot, which has a frontage on two streets.

Lot, width of, means the horizontal distance between the sidelines of a lot measured along the building front yard setback line.

Maneuvering space means an area directly related to required parking areas, designed to permit easy vehicular movement. Maneuvering space shall not be considered as part of any required parking space or loading space.

Manufacture and *manufacturing* mean the processing and/or converting of raw, unfinished

materials, or products or either of them into articles or substances of different character, or for use for a different purpose, and/or the assembling of finished materials.

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

Modular unit. See *Dwelling unit*.

Motorsports event means any regularly scheduled and/or advertised gathering for the purpose of competitive vehicular activity over a fixed course or area that persists for periods in excess of 15 minutes over one 24-hour period.

Motorsports facility means any facility for the competitive operation of automobile, trucks, motorcycles and any other motorized vehicles or machinery for recreational or commercial purpose for uses such as, but not limited to, racing, practicing, training, instruction, research and development and testing.

Motor vehicle parking lot, commercial, means a lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six or more motor vehicles for a consideration. Service or repair facilities are not permitted.

Motor vehicle sales lot means a lot arranged, designed, or used for the storage and display for sale of any new or used motor vehicle capable of independent operation or any type of temporary auto trailer and recreation vehicle.

Motor vehicle service station means any place of business having as its purpose the servicing of motor vehicles, which may have pumps and fuel storage tanks, but not including a tire vulcanizing shop, retreading, recapping, or battery manufacturing.

Nonconforming lot means an otherwise legally platted lot that does not conform to the minimum area, width, or setback requirements of this article for the district in which it is located at the effective date of the ordinance from which this article is derived or as a result of subsequent amendments to this article.

Nonconforming structure means an otherwise legal building or structure that does not conform

with the lot area, yard, height, lot coverage, or other area regulations of this article, or is designed or intended for a use that does not conform to the use regulations of this article for the district in which it is located either at the effective date of the ordinance from which this article is derived or as a result of subsequent amendments to this article.

Nonconforming use means the otherwise legal use of a building, structure, or tract of land that does not conform to the use regulations of this article for the district in which it is located, either at the effective date of the ordinance from which this article is derived or as a result of subsequent amendments to this article.

Nursing home, convalescent home and rest home mean a place containing beds for two or more patients, established to render live-in and/or nursing care for chronic or convalescent patients and which is properly licensed by the state, but not including child care homes or facilities for the care of drug addicts, alcoholics, or other patients requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospitals.

Off-street parking area means space provided for vehicular parking outside the dedicated street right-of-way.