

Sec. 42-2. Definitions and rules of construction.

- (a) *Rules of construction.* The following rules of construction apply to this chapter:
- (1) Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation at which the distance is specified.
 - (2) The term "building" includes the term "structures."
 - (3) The term "lot" includes the terms "plot" and "parcel."
 - (4) The term "used" shall be deemed also to include the term "erected," "reconstructed," "altered," "placed" or "moved."
 - (5) The terms "land use" and "use of land" shall be deemed also to include the terms "building use" and "use of building."

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

Accessory apartment means a secondary dwelling unit established in conjunction with and substantially smaller than the single-family dwelling unit or commercial establishment to which it is attached. Accessory apartments may be contained within the primary structure or may be situated within a secondary structure on the property. Accessory apartments shall not exceed 25 percent of the area of primary structures.

Accessory building means a subordinate building whose function is incidental to and located on the same lot as the principal building.

Accessory community use means ancillary to residential use and includes such uses as swimming pools, clubhouses, community rooms, fitness centers and flower and sitting gardens.

Accessory use means a use of land customarily incidental to the principal use of the land and located on the same lot as such principal use.

Agriculture means the cultivation of the soil for the purpose of raising crops, horticulture and forestry to include the keeping of animals.

Alley means a public travel way which affords secondary access to abutting property.

Antique store means a place principally offering antiques for sale. An antique, for purposes of this chapter, shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old, provided that an antique store does not include a "secondhand store."

Apartment means a dwelling unit within a structure containing three or more dwelling units. The term "apartment" includes units in apartment houses, garden apartments and apartment hotels.

Apartment house means a building used or intended to be used as a dwelling by three or more families living independently of each other and who do their cooking therein.

Art gallery, arts and crafts studio, photography studio, or art or framing store means any establishment for the preparation, display, and sale of individually crafted artwork, craftwork, photography, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items, and which may offer instruction in their creation.

Art foundry or kiln means establishments primarily engaged in the onsite production of custom-made artisan goods or glassware by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln.

Assisted living facility means any or all of the following:

- (1) A residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident counselors or other staff persons. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401. For purposes of this subsection (1) the term "residential facility" means any group home or other residential facility for which the Virginia Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.
- (2) A residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons. For purposes of this subsection, the term "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Virginia Department of Social Services is the licensing authority pursuant to the Code of Virginia.

Automobile filling station.

- (1) The term "automobile filling station" means a building used, or intended to be used, for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles, including the space and facilities for the installation of such commodities, and, in addition, the space for facilities for the storage, minor repair and servicing of said vehicles.
- (2) The term "automobile filling station" does not include body repair, painting, steam cleaning, rustproofing and refinishing.

Automobile parts store means a store selling new automobile parts, tires, and accessories, but shall not include tire recapping establishments, businesses dealing exclusively in used parts, or businesses engaged in the installation of parts, tires, and accessories.

Automobile sales, used means the use of any building or portion thereof, or other premises or portion thereof, for the display or sale of more than two used motor vehicles, including but not limited to vans, trailers, recreational vehicles, boats, or motorcycles, or the display or sale of any such used motor vehicles as an ancillary use of a lot.

Automobile wrecking yard means an area where:

- (1) Destroyed, abandoned and obsolete automobiles are disassembled;
- (2) Parts of said disassembled and automobiles are sold; and
- (3) The remaining automobile bodies and their components are temporarily stored until they can be removed or reduced to scrap metal.

Bakery means an establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or offsite. Such use may include incidental food service. A bakery shall be considered a general retail use.

Balcony means a structure or platform built outward from a building, but part of the actual building, above the ground level floor area for the purpose of providing a walkway or sitting or standing area. The structure may or may not be enclosed.

Bank and financial institution means a freestanding building, with or without a drive-through window, for the custody, loan, or exchange of money; for the extension of credit; for facilitating the transmission of funds; or engaged in deposit banking, including any financial institution that is open to the public and that performs closely related functions such as making loans, investments, and similar fiduciary activities.

Barber shop, beauty salon or nail salon means any establishment where cosmetology services are provided such as hair care, nail care or skin care on a regular basis for compensation.

Base flood means a flood having a one percent chance of being equaled or exceeded in any given year; also referred to as the 100-year flood.

Base flood elevation (BFE) means the Federal Emergency Management Agency-designated 100-year water surface elevation.

Basement means a story partly underground and having at least one-half of its height above ground (curb) level.

Bed and breakfast homestay means a private, owner-occupied dwelling in which the frequency and volume of paying guests is incidental to the primary use of the building as a private residence. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only.

Bed and breakfast means a business operated in a structure which is used primarily for providing overnight accommodations to the public, even though the owner or manager may live on the premises. The number of guestrooms may range from four to no more than 20. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only.

Berm means a landscaped earthen mound intended to screen, buffer, mitigate noise and generally enhance views of parking areas, storage areas or required yards, particularly from public streets or adjacent uses.

Blacksmith, welding or machine shop means shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops and plumbing, heating, and electrical repair shops.

Block means an area bounded on all sides by streets or a combination of street lines, railroad rights-of-way, unsubdivided land, rivers, live streams or any other barriers to the continuity of development.

Boardinghouse means a dwelling where, for compensation, lodging and meals are provided for not more than 14 persons.

Bookstore means a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any "movie theater" or "performing arts studio."

Buildable area means the space remaining after the minimum yard requirements of this chapter have been complied with.

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 personal property.

Building footprint means the area on the ground surface covered by the building.

Building line means the line parallel to the street right-of-way line or front lot line and touching the part of the building closest to the street.

Camper means a portable, detachable unit designed to be carried upon a pickup truck intended as a temporary dwelling for travel recreation or vacation.

Cellar means a portion of a building having more than one-half of its height belowground of the curb level.

Channel means a natural or artificial watercourse of perceptible extent with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of the defined channel.

Child care center means a licensed establishment which offers care, protection and supervision for compensation to more than nine children at a time during any 24-hour period, and then only for part of any 24-hour day. The term "child care center" may include nursery schools, kindergartens or other facilities for which the purpose is primarily educational, recreational or medical treatments.

Child care home means a single-family detached, duplex or townhouse dwelling which offers care, protection and supervision for compensation to more than four, but not more than nine, children at a time during any 24-hour period, and then only for part of any 24-hour day.

Clothing and accessories store means retail stores where clothing and clothing accessories are sold, such as department stores, dry goods and shoe stores, and dress, hosiery, and millinery shops.

Communications and broadcast studio means an establishment containing one or more broadcasting studios for over-the-air, cable, or satellite delivery of radio or television programs, or studios for practicing, audio or video recording or filming musical performances, radio or television programs or motion pictures. This term does not include a transmission tower.

Computer or electronics store means a retail business establishment which provides sales and/or services pertaining to one or more of the following: electronic equipment or personal and business computer hardware or software; personal and business computing or networking; telecommunications devices, equipment, and systems; electronic navigation devices, equipment, and systems; electronic security systems; or any other specialized computer, electronic, or telecommunications equipment for home or business use.

Construction means any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action.

Construction and/or sales trailer means a structure standing on wheels, towed or hauled by another vehicle and used temporarily as a contractor's office or for sales of the units in the subdivision, or subdivision section, in which the trailer is located; and in which the sale and construction of units is planned or underway.

Contractor and construction services means an establishment used for the indoor repair and maintenance, or the indoor and outdoor storage, of a contractor's vehicles, equipment, or materials, and which may include the contractor's business office. A contractor may be a general contractor or builder engaged in the construction of buildings and structures, either residences or commercial structures, including without limitation fencing, signs, electrical, plumbing, heating and air conditioning, flooring, roofing, or interior remodeling, or a person

engaged in activities such as landscaping and tree maintenance and removal, site excavation, paving, highway construction, or utility construction, but excluding asphalt, concrete and paving plants.

Convenience store means a small-scale commercial establishment designed and intended to serve daily or frequent trade needs of the surrounding population, characterized by the retail sale of a limited line of groceries and household items generally purchased in small quantities and intended for the convenience of shoppers, including pre-packaged food products, tobacco, periodicals, medicines, cosmetics, and limited beer and wine items. Such stores may have on-site service of food or drink for immediate consumption and may include the dispensing of fuel for retail sale on the premises, subject to any additional requirements which may be applicable to such uses or activities in the zoning district where located.

Convention facility or center means a commercial facility used for conventions, conferences, seminars, product displays, and similar assemblies of the members or representatives of groups, including exhibition space and food and beverage preparation and service for on-premise consumption. This term does not include banquet halls, clubs, lodges, or other meeting facilities of private or nonprofit groups that are primarily used by group members.

Country inn means a business which offers accommodations and dining. Overnight accommodations are available and full service restaurant provides breakfast, lunch and/or dinner to guests and the general public. The number of guestrooms shall not exceed 20.

Court means an open unoccupied space other than a yard on the same lot with a building or group of buildings and which is bounded on two or more sides by such buildings.

Coverage means percentage of the total lot area which may be occupied by buildings.

Dance or fitness studio means a facility designed for the principal purpose of dancing, aerobics and exercising, physical fitness, improved circulation or flexibility, or weight reduction or control. This shall not include municipal or non-commercial fitness centers or indoor recreation facilities.

Data center means an establishment primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices and computer-related sales establishments.

Deck means a platform or structure built out from the building structure that is not part of the building, but rather is added to the structure for purposes of a walkway, sitting or standing area. A deck can be on the ground level or built above the ground level on a separate foundation or pilings that are set into the ground to maintain the weight of the platform or structure and may be built from a number of different types of material that meet safety standards. Decks may project into any required yard other than a front yard, provided that the structure is not less than 15 feet from the property line of the residence.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Distillery means a place or establishment that typically produces not more than 5,000 gallons per year of distilled alcoholic beverages or spirits (as defined within §4.1-100, Code of Virginia, as amended) and may include the intake of grains, fruits, sugars or other products, their fermentation, distilling, aging, and bottling. Products may include liquors, liqueurs, brandies, etc. Such facilities may include a tasting room or retail space to sell the products to patrons on site.

District means a portion of the town within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are not permitted as set forth in this chapter, and within which certain yards and other open spaces are required and within which certain lot areas are established or within which a combination of such aforesaid conditions are applied.

Dry cleaner means an establishment means or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises, or any place where articles are dropped off, sorted, and picked up but where laundering or cleaning is done elsewhere.

Duplex, vertical, means a building containing two separate dwelling units that are constructed with a common party wall extending from ground to roof and with each dwelling unit located on its own separate lot and having separate exterior entrances.

Dwelling means one or more rooms connected together, constituting a separate unit for a single-family owner-occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities

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

Dwelling, detached, means either of two dwellings, both of which are entirely freestanding on the same lot.

Dwelling, group, means an arrangement of two or more detached dwellings occupying a zoning lot.

Dwelling, multiple, means a dwelling having three or more dwelling units.

Dwelling, semi-detached, means a dwelling having any portion of one wall in common with an adjoining dwelling.

Dwelling, single-family, means a dwelling used or intended to be used exclusively for one dwelling unit.

Dwelling, two-family, means a dwelling having two dwelling units, one above the other or a dwelling having two units side by side, both using a common exterior entrance.

Dwelling unit means one room or a group of two or more rooms used or intended to be used by one family for living and sleeping purposes, and having only one kitchen, or kitchenette.

Electrical, plumbing and building material supply store means establishments or places of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile, material or equipment supplies as otherwise defined in this section. Typical uses include building material stores and home supply establishments.

Emergency care facility means a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. The term includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

Fabric, quilting and upholstery supplies or services means a business that manufactures or sells fabric or finished fabric products, or one that repairs and replaces upholstery to household and office furnishings, but does not include motor vehicle upholstering or repair.

Family means one person, or any of the following groups living together and occupying a single nonprofit and noncommercial housekeeping unit, or occupying part of a dwelling unit as a separate nonprofit and noncommercial housekeeping unit, having a common set of sleeping, cooking and eating facilities:

- (1) Subject to the occupancy limitations imposed by the Virginia Property Maintenance Code, any number of persons all of whom are related by blood, marriage, adoption, guardianship, or other duly-authorized custodial relationship;
- (2) Subject to the occupancy limitations imposed by the Virginia Property Maintenance Code, up to four (4) persons not related to one another by blood, adoption, guardianship, or other duly-authorized custodial relationship;
- (3) Pursuant to §15.2-2291 of the Code of Virginia, not more than eight (8) persons residing in a group home having mental illnesses, intellectual disabilities, or developmental disabilities, together with one or more resident or nonresident staff persons, provided that the terms "mental illness" and "developmental disability" shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401 of the Code of Virginia;
- (4) Pursuant to Section 3601 et seq., as amended, of the Fair Housing Act (42 USC 3601, et seq.), not more than eight (8) persons who are handicapped as defined in Section 3602(h) of the Act, together with one or more resident or non-resident staff persons; or
- (5) Subject to the occupancy limitations imposed by the Virginia Property Maintenance Code, any number of persons who are domestic servants, nurses or therapists and not more than two roomers or boarders.

The term "family" shall not be deemed to include a fraternity, sorority, club or a group of persons occupying a hotel, motel, tourist home, lodging house or institution of any kind, except as specifically included by this definition.

Farm and garden shop or store means a retail establishment selling or renting equipment, but excluding heavy machinery, or supplies for use in soil preparation and maintenance, the planting and harvesting of plants and crops, and/or other operations pertaining to farming, ranching or gardening, or an establishment specializing in the retail sale of locally or regionally grown foods, agricultural and/or horticultural products, provided that a farm store owned, operated and organized as a community food or grocery cooperative shall be considered a farm store, and not a grocery store, for the purposes of administering this chapter.

Farmers' market means a building, stalls, stands or place which is open to the general public for the sale of horticultural or agricultural products.

Feed and seed store means a retail store selling primarily products and supplies directly related to the day-to-day activities of agricultural production, but not including the bulk storage of fertilizers and related agrochemicals.

Fence.

- (1) The term "fence" means a barrier, usually made of posts and boards or wire, intended to prevent escape or intrusion or to mark a boundary.
- (2) The term "fence" does not mean trees, shrubbery or other foliage.

Fire, rescue and police station means a facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities, including interim incarceration facilities.

Fitness or community center means non-commercial health, athletic or physical fitness facilities.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters or a temporary rise in stream flow that results in water overtopping its banks and inundating areas adjacent to the channel.

Floodplain means any land area susceptible to being inundated by water from any source as a result of the regulatory flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

Florist means a retail business conducting business within an enclosed building whose principal activity is the selling of plants which are not grown on the site.

Fraternal clubs and lodges means buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purposes, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Freeboard means a factor of safety, usually expressed in feet above a flood level, for the purpose of floodplain management.

Funeral home means a building used for the preparation of the deceased human beings for burial and display of the deceased, and rituals connected therewith before burial or cremation, including the arranging and managing of funerals. A funeral home, as defined for purposes of this code, includes a funeral chapel.

Furniture and appliance store means a business establishment offering the on-site retail sale of furniture, home furnishings or appliances to the general public.

Furniture or cabinet-making shop means a business establishment whereby furniture or cabinetry is manufactured and assembled in the interior of a completely enclosed building.

Garage, communal, means a garage used for the storage of vehicles for occupants of lots, in the same or adjacent blocks.

Garage, private, means an accessory building or a part of the principal 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 for the storage of four or more vehicles by persons not residing on the lot on which such building is located.

Garden apartment means a structure not more than three stories in height, which contains at least three, but not more than 12, apartment units.

Gift shop or jewelry store means a retail store where items such as art, antiques, jewelry, books, postcards, souvenirs, and similar items are sold.

Government body means the town council.

Government building or facility means a building, structure or site owned, operated, or occupied by governmental agency to provide a governmental service to the public.

Grocery store and delicatessen means a store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

Hardware store or home and yard retail store means an establishment primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies, and cutlery. Such an establishment, if greater than 9,000 square feet, shall be considered a building material supply store (see "Electrical, plumbing or building material supply store").

Health official means the legally designated health authority of the state board of health for the town or his authorized representative.

Height of building. In all zoning districts, except the Town Center Planned Development District T-C, the building height shall be calculated as the vertical distance measured from the average elevation of the finished grade adjoining the building at:

- (1) The front elevation; and
- (2) Any two of the other elevations;

to either the highest point of a flat roof or to a point that is the average distance between the highest eave or top edge of the highest wall and the highest roof point for buildings (directly related to the three elevations used in the calculation) with other types of roofs. *Home occupation* means any ongoing activity carried out for gain by a resident and conducted in the resident's dwelling unit.

Hotel means a building designed or occupied as the more or less temporary abiding place for persons who are, for compensation, lodged with or without meals, and in which provision is not made for cooking in individual rooms or suites.

Infill development means the development of new housing or other new buildings on scattered vacant sites in a previously developed or built-up area.

Inoperable vehicle means any vehicle which does not display the following: (1) currently valid state license plate(s); (2) valid inspection certificate (if required) for the state in which the vehicle is licensed; and (3) a currently valid town license plate or other device, as required by town ordinance/ The term "inoperable vehicle" does not include farm vehicles and other vehicles which are exempted from the requirements of displaying state license plates under the provisions of Code of Virginia, title 46.2, ch. 6, arts. 4 (Code of Virginia, § 46.2-650 et seq.), 5 (Code of Virginia, § 46.2-655 et seq.); and 6 (Code of Virginia, § 46.2-662 et seq.).

Institutional uses mean facilities including but not limited to churches, hospitals, access health care, private trade or higher education schools, and convention facilities.

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

Large lot development means a development which combines more than one lot, but fewer than 25 large lots as defined in this chapter, under one ownership for the purpose of creating an infill development.

Library means a public or nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

Light vehicle and automobile repair shop means any building, structure, improvements, or land the primary use of which is:

- (1) The mechanical repair of vehicles, motorcycles, light trucks and vans having a gross weight of not more than 3.5-tons, and the retail supply and replacement of batteries, tires and motor vehicle accessories therefor;
- (2) The rendering of services and sales related to oil changes, brake and muffler replacement, auto washing and detailing; or
- (3) The rendering of services and sales related to the installation of CB radios, vehicle security systems or stereo equipment.

Permissible uses may include auto body work including but not limited to body, fender, windows and glass, or upholstery work, but may not cause fumes, smoke, noise or glare outside of a completely-enclosed building. Outdoor parking of vehicles is not permitted for more than two consecutive weeks, except on a daily basis for employees and customers. "Inoperable vehicles," as described in section 42-295, may not be stored outdoors.

Liquefied petroleum gas distribution facility and storage tanks means a storage facility and dispensing station, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products for retail sale, wholesale, or wholesale distributing. The term shall include all liquefied petroleum gas storage tanks, whether located aboveground or belowground, located in commercial and industrial zoning districts.

Location plan shows where structures, additions to structures and related facilities, such as parking and driveways, are to be built on a site or where an existing building is located that is proposed for demolition.

Lot means a parcel of land, occupied or intended for occupancy by a use permitted by the provisions and requirements of this chapter, which has a frontage on a street or an officially approved private means of ingress and egress.

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

Lot coverage means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

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, irregular, means a lot, usually, but not always, with sole access from a private street or private access easement, which is so located, shaped or oriented to adjacent lots that application of general measurement methods or dimensional yard requirements of the district in which it is located serve no significant public purpose; and/or a lot with location of yards by type not logically determined by or related to yard patterns on nearby regular lots.

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

Lot, pipestem, means a lot that does not abut a public street other than by its driveway, which affords access to the lot.

Lot, through, or double frontage, means a lot, other than a corner lot, which has a frontage on two streets.

Lot, width of, means the horizontal distance between the side lines of a lot measured along the building setback line.

Lowest floor means the lowest floor of the lowest enclosed area (including basement).

Lumber supply store means facility where building materials such as lumber, plywood, drywall, paneling, and similar building products are stored and sold, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

Manufacturing, processing and production means the manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials.

Medical and health care facility or clinic includes, but is not limited to, such businesses as medical offices, dentists, mental health clinics, and physical therapists offering health care services to the public on an outpatient basis only.

Microbrewery or brewpub means an establishment where beer, ale, and malt alcohol beverages are brewed for distribution, and on or off premise retail or wholesale purchase, typically in conjunction with a bar or tavern use. The maximum brewing capacity shall not exceed 10,000 barrels per year.

Micro wind turbine means a turbine which uses wind energy to generate electricity and has a capacity rating of less than or equal to 100 kW.

Mini-warehouse and self-storage means a building or group of buildings located within a controlled-access and fenced compound that contain individual, compartmentalized, and controlled-access stalls or lockers, which may be of various sizes and include climate-controlled units, for lease to customers' for the self-service storage of personal property.

Mixed-use dwelling means a dwelling unit located in a building containing residential in addition to non-residential uses permitted in the zoning district wherein the building is located.

Mobile home means an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used without a permanent foundation for continuous year-round dwelling; or two or more such units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designed for removal to, and installation or erection on, other sites.

Model home means a building having the physical characteristics of a residential dwelling, which exists for the purpose of display or advertising in connection with the sale of units in a residential development on a temporary basis. The term "model home" may incorporate an office use that is directly related to the sales function of the building. The ultimate intended use of such a building is as a dwelling.

Motel means one or more buildings containing individual sleeping rooms, used or designed to be rented, let or hired out for compensation by automobile tourists or other transients whether the compensation is paid directly or indirectly. The term "motel" includes motor hotels, tourist courts, motor lodges and the like.

Motor home means a self-propelled vehicle intended to serve as a temporary dwelling for travel, recreation or vacation. *Movie theater or performing arts center* means an indoor use conducted in building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances. Such establishments may include related services such as food and beverage sales and other concessions.

Museum or cultural center means a room or building for, or an institution in charge of, exhibiting, displaying and preserving objects of community and cultural interest or maintaining a collection of natural, literary, artistic, historical, or scientific objects, and which is designed to be used by members of the public for viewing.

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

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

Nonconforming structure or building means an otherwise legal structure or building that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to said ordinance.

Nursing home or extended care facility means a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities or injuries not requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital.

Office means a room, group of rooms, building or portion thereof used for conducting the affairs of a business, profession, service, industry, or government.

Office, administrative, business or professional means an establishment providing direct services to consumers, such as insurance agencies, title insurance companies, real estate offices, stockbrokers, advertising agencies, travel agencies, ticket sales, chambers of commerce, credit bureaus, and commercial post offices, but not including medical offices as otherwise defined in this section.

Office, medical means a building or portion thereof used by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

Office supply and stationary store means an establishment engaged in office equipment rental and leasing, photo finishing, copying and printing, the retail sale of office supplies and stationary, or similar services.

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

Package and parcel services means a facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Postal Service.

Park means an outdoor space or area consisting of woodlands, water courses, and fields used for passive or active recreational activities and designed to serve the recreation needs of the residents of the community. Such facilities include subdivision recreation facilities (neighborhood parks), community parks, and regional and state parks.

Parking space means an area of not less than nine feet wide by 18 feet long, for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

Patio means an internal, uncovered courtyard or paved backyard area usually with an impervious surface for use by people for social or recreational purposes rather than as a parking space.

Performing arts center means a facility for the presentation and viewing of performing arts.

Personal services includes, but is not limited to, such businesses as barber shops, beauty or nail salons or parlors, martial arts studios,.

Pet/animal boarding means any structure, land, or combination thereof used, designed, or arranged for the temporary boarding of pet animals owned by another person for pay, trade, barter, commission, or remuneration of any sort, but exclusive of animals used for agricultural purposes. The term shall not include veterinary hospitals and clinics.

Pet/animal daycare and grooming means any place or establishment, public or private, where pets or animals are kept or trained for compensation, but not including overnight boarding, or where pets or animals are bathed, clipped, combed or otherwise groomed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.

Pharmacy means a business where drugs and medicines are prepared and dispensed, and which may include the sale of over-the-counter pharmaceutical items, supplies, and equipment as well as a limited line of groceries and household items generally purchased in small quantities including tobacco, periodicals, cosmetics, toiletries, and limited beer and wine items.

Photographic equipment sales means a business establishment primarily engaged in the retail sale, lease, and service of photography equipment and supplies, including limited on-site processing or development.

Place of assembly means a meeting place at which the public or membership groups are assembled regularly or occasionally for civic, educational, political, religious, or social purposes, including but not limited to religious facilities, concert halls, auditoriums, lecture halls, banquet facilities, and similar places of assembly.

Porch means a roofed open area, which may be glazed or screened, attached to or part of, and usually with direct access to or from, a building.

Post office means a federal government facility that contains service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

Public service agency or office means a government service facility providing direct services to the public wherein significant aggregations of people are probable, especially those such as employment offices, public assistance offices, motor vehicle registration and licensing

services, and similar activities commonly accustomed to having assemblages of people queuing, tarrying, or waiting for service.

Publishing and printing establishment means an establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including collating, publishing, binding, and engraving.

Professional office means the office, studio or occupational room of a doctor, architect, artist, musician, lawyer or similar professional person or of a person engaged in the real estate or insurance business, excepting any mortuary, or any establishment where goods are offered for sale, provided not more than two persons engaged in the occupation other than the principal practitioner (or in the case of two doctors with offices in the same structure, not exceeding two employees for each practitioner), and provided that, whenever a professional office is located within a residential district, such use is conducted within a building retaining the residential character of the neighborhood.

Public utility means a company, government agency or other entity that is regularly engaged in providing electricity, water, sanitary sewer, gas, telephone, fiber optic, cable or similar communications and the facilities and appurtenances thereto, under federal, state or local regulation.

Recreational facility, indoor means an indoor facility, with or without seating for spectators, providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, retail sales of related sports, health or fitness items, and other support facilities.

Recreational facility, outdoor means a recreational land use conducted outside of a building in a park or park-like setting including hiking, bicycling and equestrian trails and related facilities; child play equipment; pavilions and amphitheatres; athletic fields; miniature golf; skateboard park; swimming, bathing, wading and other therapeutic facilities; tennis, handball, basketball courts; and batting cages.

Recreational vehicle means a travel trailer, motor home, camper or similar apparatus intended as a temporary dwelling for travel, recreation or vacation. The term "recreational vehicle" includes self-propelled vehicles, towed vehicles and portable units.

Religious facilities includes, but is not limited to, such facilities for worship as churches, mosques, temples and synagogues.

Restaurant means any business establishment, however designated, whereby the principal use is the preparation and sale of food and beverages, and at which food and beverages are sold for consumption on the premises to patrons seated within an enclosed building or elsewhere on the premises, or sold to patrons for consumption off-premises.

Retail sales and service facilities includes, but is not limited to, such businesses as restaurants, cosmetics, sports equipment, clothing, shoes, food, hardware, electronics and communications, games, gifts, health products, cards and stationery, jewelry sales and repair, frames and posters, furniture, mailing and copying, office supplies, bicycles, antiques, flowers and plants, photography, books and magazines, paint and wallpaper. Services, such as repair services, have to be adjunct to related sales.

Roominghouse or lodginghouse means a building other than a hotel where lodging is provided for three or more persons for compensation pursuant to previous arrangements but not open to the public or transients.

School means a public or private institution for the teaching of children or adults including but not limited to primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

Screening means a well-maintained fence, wall, hedge, or vegetative material at least five feet in height and of sufficient density to conceal from view the structures and uses on the premises on which the screening is located.

Setback means the minimum or maximum distance by which any building or structure must be separated from any lot line.

Setback line means the line which establishes the required setback area and the area of the lot within which a building or structure may be erected or placed.

Specialty food or beverage store means a food store primarily engaged in selling of food stuffs associated with a particular nationality, religious observance, dietary practices, or cuisine, or a beverage store engaged in selling juice, cider, beer, wine, or other alcoholic or non-alcoholic beverages, for off-premise consumption.

Sporting goods and tack stores means an establishment used for the sale of sporting goods and related equipment, equestrian equipment and supplies, firearms, ammunition and ammunition components or hunting or shooting equipment.

Storage container, portable, means a fully enclosed, box-like container with or without signage on its outer surfaces that is designed for the temporary storage of personal property, household goods and/or equipment or building materials on residential lots. Such containers are uniquely designed for ease of loading to and from a transport vehicle. The portable storage container may not exceed eight feet in height, ten feet in width and 16 feet in length. A temporary portable storage container is not deemed an accessory structure.

Story, half, means a space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use.

Street or road means a public thoroughfare, except an alley or driveway, which affords vehicular traffic circulation and principal means of access to abutting property.

Street line means the dividing line between a street or road right-of-way and the contiguous property.

Structural alteration means any change in the supporting members of a building or structures, such as bearing walls, partitions, columns, beams or girders, or any change in the width or number of exit or substantial change in the roof.

Structure means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having permanent location on the ground.

Structure, outdoor advertising, means any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including outdoor advertising statuary.

Substantial damage (in a floodplain) means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement (in a floodplain) means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. The term

"substantial improvement (in a floodplain)" includes structures which have incurred substantial damage regardless of the actual repair work performed. The term "substantial improvement (in a floodplain)" does not, however, include either: (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum, necessary to ensure safe living conditions; or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Telecommunication facility means any commercial facility, and its accessory uses or structures, utilized for the broadcast or reception of electro-magnetically transmitted information, except those facilities that are defined as wireless communications equipment or a data center.

Tourist home means a dwelling in which overnight accommodations are provided or offered for three or more transient guests.

Townhouse means at least three, but not more than eight, attached single-family dwelling units forming a continuous structure, each being separated by common or party walls or solid masonry construction.

Transit agency or transportation service company means an establishment primarily engaged in the transportation of goods and people for compensation, including public transit services and agencies, using motor vehicles such as taxis, buses, vans, and carpools to provide shared occupancy, doorstep, or curbside personalized transportation service.

Travel trailer means a vehicular, portable structure built on a chassis designed to be towed and intended as a temporary dwelling for travel recreation or vacation. The term "travel trailer" includes travel trailers with rigid or collapsible sides.

Use means the purpose or activity for which land or buildings thereon is designed, arranged, or intended or for which it is occupied or maintained. The term "use" includes any manner or performance of such activity with respect to the performance standards of this chapter.

Variance means a reasonable deviation from those provisions of this chapter regulating the size or area of a lot or parcel of land, or the size, area, hulk or location of a building or structure when the strict application of the chapter provisions would result in unnecessary or unreasonable hardship to the property owner, and such need for variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of this chapter and would result in substantial justice being done. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

Veterinary hospital and clinic means a facility where pets and animals are given medical and/or surgical treatment and the indoor boarding of such animals is limited to short-term care incidental to the hospital use.

Warehouse and wholesale trade means a use where goods are received and/or stored for delivery to a retailer, or any use engaged in storage, wholesale trade, and/or distribution of manufactured products, supplies, and equipment to customers, excluding bulk storage of materials that are flammable, explosive or present hazards or conditions commonly recognized as dangerous.

Wholesale food and beverage processing means an establishment or place of business primarily manufacturing, producing or processing foods or beverages for human consumption and certain related products. Such uses include: (1) bakery products, sugar and confectionery

products (except facilities that produce goods only for on-site sales); (2) dairy products processing; (3) fats and oil products (not including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing (not including facilities that also slaughter animals); and (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants. The term shall not include the processing or production of alcoholic beverages or spirits.

Wireless communications equipment means sending and receiving antennas attached to a tower or similar structure, such as a steeple or silo, and a prefabricated or modular structure of cabinets containing electronic hardware. For purposes of this chapter, amateur radio transmission equipment is not classified as wireless communications equipment.

Yard means an area on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied, except by specific uses and structures permitted by the provisions of this chapter.

Yard, front, means a yard extending across the full width of a lot and lying between the front lot line and the principal building.

- (1) On a corner lot, the two yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.
- (2) On a through lot, the two yards lying between the principal building and the two opposite public streets shall be deemed to be front yards; provided, however, that for the purposes of section 42-290(a), the yard on the opposite side of the principal building from the primary entrance into the principal building shall be deemed the rear yard.
- (3) On a pipestem lot or a lot abutting a pipestem driveway, any yard contiguous to the pipestem driveway shall be deemed a front yard and shall be measured from the lot line formed by the pipestem. The minimum and maximum front yard shall be that required in the zoning district. The zoning administrator may waive these requirements if the circumstances warrant and undue negative impact on adjacent lots is not caused.
- (4) On an irregular lot, yard requirements for regular lots shall be followed where possible, with the determination to be made by the zoning administrator.

Yard, rear, means a yard extending across the full width of the lot and lying between the rear lot line and the principal building. On a corner lot, the rear yard shall be that yard on the opposite side of the principal building from the front lot line where the primary building entrance is located, which extends from the front yard line on the one side to the opposite side lot line.

Yard, secondary front (corner lots), means on a corner lot, the side that does not contain a building's architectural main entrance shall be considered a secondary front yard and shall occupy the area between the front property line and the main building line.

Yard, side, means a yard between the side lot line and the principal building extending from the front yard to the rear yard. In the absence of either a front or rear yard, it extends to either the front or rear lot line, as the case may be.

Winery or cidery means an agricultural growing and processing facility used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales

and tasting facilities of wine and related promotional items may be permitted as part of the winery's or cidery's operations.

Zoning administrator means the representative of the town council who has been appointed to serve as the agent of the council in the enforcement of this chapter.

Zoning permit means a permit required by the town for the construction of new building, exterior structural changes in existing buildings and the demolition of existing buildings.

(Ord. of 9-21-2006, §§ 13-1, 13-2; Ord. No. 2008-06-01, 6-26-2008; Ord. No. 2008-06-02, 6-26-2008; Ord. No. 2008-08-01, 8-28-2008; Ord. of 11-20-2008; Ord. of 9-10-2009; Ord. No. 2010-05-01, 5-13-2010; Ord. No. 2011-03-001, 3-10-2011; Ord. No. 2009-11-001, 11-19-2011; Ord. No. 2011-12-002, 12-8-2011; Ord. of 6-27-2013(02) § 13-2; Ord. No. 2015-08-0001, 8-27-2015; Ord. No. 2015-11-0001, 9-11-2015; Ord. No. 2015-12-0001, 12-10-2015; Ord. No. 2017-04-0001, 4-6-2017)

ARTICLE VII. COMMERCIAL AND LIGHT INDUSTRIAL ZONING DISTRICTS

Sec. 42-257. Purpose; specific requirements for all districts.

Commercial and industrial zoning districts are established to accommodate a variety of commercial, industrial and service-related activities within specific areas of the town. All properties within the commercial and industrial zoning districts shall be subject to the following standards:

- (1) *Lighting requirements.*
 - a. No canopy or roof fascia of any size or dimension shall be constructed, reconstructed, or altered in such manner as to have internal lighting of any kind.
 - b. All site lighting, if any, shall utilize fully shielded cutoff fixtures and be designed and located so as to prohibit glare onto adjacent properties.
- (2) *Hours of operation.* Any business located within 100 feet of the nearest property line of a residential use located within a residential district shall close to the public not later than 11:00 p.m. each day and shall not reopen earlier than 7:00 a.m. the following day. All businesses located within the town limits shall close to the public not later than 12:00 midnight and shall not reopen earlier than 6:00 a.m. the following day.
 - a. Hours of operation may be extended by the town council with a conditional use permit. Such application shall specifically justify the need for the modification to the satisfaction of the town council.
 - b. All business and commercial uses located in commercial and industrial zoning districts must meet the following requirements:
 1. All deliveries shall only occur during permitted public business hours.
 2. All outdoor business-related activities shall only occur during permitted public business hours.

3. All business activity that is audible at the property line shall only occur during permitted public business hours.
 4. Refuse and dumpster collection shall only occur between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 7:00 p.m. Saturday and Sunday.
 5. Construction shall only occur between 7:00 a.m. and 7:00 p.m. Monday through Friday, construction shall only occur between 9:00 a.m. and 7:00 p.m. on Saturdays. No construction shall occur on Sunday.
- (3) *Outdoor storage.* All exterior storage areas of goods and materials within commercial and industrial zoning districts, where permitted, shall meet the following minimum standards, provided that such standards shall not apply to outdoor displays of goods offered for retail sale or wholesale on the premises which are subject to paragraph (4) below:
1. Exterior storage areas shall not be permitted within any front yard. Any exterior storage area located in a side or rear yard shall be screened by an opaque fence not less than six (6) and not greater than eight (8) feet in height. All exterior storage areas shall be limited to only those areas designated for outdoor storage on a concept plan approved as part of a rezoning or conditional use permit application, or on the approved site plan.
 2. Exterior storage areas may be located in a required side or rear yard provided such areas shall be set back at least ten feet from the side and rear property lines, and provided further that outdoor storage areas shall not be located in required off-street parking or loading areas, fire lanes, vehicle and pedestrian travel ways, drive aisles and sidewalks.
 3. Exterior storage areas shall not include the storage of waste materials.
 4. No exterior storage area or its associated fence shall be located within a required buffer yard, provided that a Type A landscape buffer may be provided adjacent to an exterior storage area in accordance with the landscaping requirements contained in Article X of this chapter.
 5. Any exterior storage area which exceeds 25 percent of the total area of the lot shall require approval of a conditional use permit in accordance with Article II of this chapter.
- (4) *Outdoor display.* Outdoor displays of goods and materials which are offered for retail sale or wholesale on any property in any commercial or industrial zoning district may be displayed in an outdoor display area located directly in front of the principal building or storefront at a distance not exceeding twenty (20) feet from the building line, or on a covered porch in front of such building, which does not exceed fifty percent of the length of the front of the principal building or storefront, as applicable, provided that any such goods or materials displayed in any other portion of the front yard shall be located in an outdoor display area which does not exceed 50 percent of the frontage of the lot.
- (5) *Hazardous materials.* Businesses located within any commercial or industrial zoning district shall not store hazardous chemicals in excess of the threshold levels established by Superfund Amendment and Reauthorization Act (SARA) title III. The use, storage, and disposal of hazardous materials shall comply with all applicable federal, state and local codes.

- (6) *General standards for certain uses.* The identified uses in this subsection, wherever permitted in a commercial or light industrial district, shall conform to the standards set forth in this section, unless otherwise specifically modified in the provisions authorizing such use in a district.
1. Liquefied petroleum gas distribution facilities and storage tanks: Any such storage tank having a capacity greater than 500 gallons, or any three or more such storage tanks having a capacity greater than 1,500 gallons in the aggregate, shall be located underground for safety purposes and to minimize the visual impact on surrounding properties unless a conditional use permit has been approved by the Town Council in accordance with Article II of this chapter. Any such aboveground storage tanks shall be screened from view in accordance with Section 42-257 (3) and the applicable standards of Article X of this chapter.
 2. Lumber and other building and construction materials stored or offered for sale on the premises shall not be stored or displayed within required yards, or within buffer yards or landscape areas required by this chapter.
 3. Veterinary hospitals and clinics shall be subject to the following additional development criteria:
 - a. The entire business must be conducted wholly within a completely enclosed soundproofed, heated and air conditioned building, except for a limited outdoor fenced dog walk area.
 - b. Noise and odors created by activities within the facility shall not be perceptible beyond the property line or facility itself if the property has other buildings with human activity.
 - c. No animals shall be housed outside the building at any time.
 - d. Outdoor features shall comply with any appropriate design or amenity policies in the town's comprehensive plan.
 - e. Additional buffering, screening or landscaping may be required under conditional use permits, especially to protect visual or other adverse impacts on residential areas.

(Ord. of 9-21-2006, § 3-11; Ord. of 6-27-2013(02), § 3-11; Ord. No. 2010-05-01, 5-13-2010)

Sec. 42-258. C-1 Community Commercial District.

- (a) *Scope and purpose.* The provisions of this section apply to the C-1 Community Commercial District. This district is designed to accommodate general commercial business to which the public requires direct and frequent access, but which is not characterized by constant heavy trucking other than stocking and delivery of retail goods. The town intends that existing residential buildings be converted to commercial use rather than have new buildings constructed whenever possible.
- (b) *Permitted uses.*
- (1) Art gallery, arts and crafts studio, photography studio, or art or framing store.
 - (2) Banks and financial institutions without drive-through windows.
 - (3) Barber shop, beauty salon or nail salon.

- (4) Bed and breakfast or country inn subject to section 42-196.
- (5) Child care centers, day care centers or nursery schools subject to section 42-197.
- (6) Communications and broadcast studio.
- (7) Construction and/or sales trailer, subject to section 42-201.
- (8) Dance or fitness studio.
- (9) Dry cleaner.
- (10) Fraternal clubs, lodges, and community buildings for use by nonprofit organizations.
- (11) Fire, rescue and police stations.
- (12) Funeral home.
- (13) Furniture or cabinet making shops.
- (14) Indoor recreational facilities containing not more than 10,000 square feet of gross floor area.
- (15) Libraries, museums and cultural centers.
- (16) Medical and health care facilities and clinics.
- (17) Mixed use dwellings.
- (18) Movie theater or performing arts center.
- (19) Offices, administrative, business or professional.
- (20) Outdoor recreational facility occupying an area of land not exceeding 10,000 square feet.
- (21) Park, public or private.
- (22) Personal services, not otherwise listed.
- (23) Places of assembly containing not more than 7,500 square feet of gross floor area.
- (24) Post office.
- (25) Restaurants and catering services, including curb service but excluding drive-through windows and related facilities.
- (26) Retail nurseries, greenhouses, farm and garden stores and farmers' markets.
- (27) Schools, colleges and universities without residential dormitories.
- (28) Schools: technical, trade, vocational, Montessori or business.
- (29) Retail sales establishment, including the following:
 - a. Antique store.
 - b. Automobile parts store
 - c. Bakery.
 - d. Bookstore.

- e. Clothing and accessories store.
- f. Computer or electronics store.
- g. Fabric store.
- h. Florist.
- i. Furniture and appliance sales and/or service.
- j. Gift shop or jewelry store.
- k. Grocery store and delicatessen.
- l. Hobby store.
- m. Music store.
- n. Office supply and stationary store.
- o. Pet supply store.
- p. Pharmacy.
- q. Photographic equipment sales.
- r. Specialty food or beverage store.
- s. Sporting goods and tack stores.

(c) *Conditionally permitted uses.* The following uses may be permitted within the C-1 district, subject to the conditional use permit process and criteria as established in this chapter:

- (1) Art foundries or kilns.
- (2) Banks and financial institutions with not more than two drive-through windows.
- (3) Convenience stores.
- (4) Feed and seed store, excluding silos.
- (5) Hardware store.
- (6) Light vehicle and automobile repair shops without outdoor storage and/or display.
- (7) Microbreweries, cideries, distilleries and wineries.
- (8) Mini-warehouses and self storage
- (9) Package and parcel services.
- (10) Parking lot, public.
- (11) Telecommunication facilities, excluding substations.
- (12) Veterinary hospitals and clinics.
- (13) Wireless communications equipment.

(d) *Lot requirements.*

- (1) Minimum Size: 2,500 square feet.
- (2) Minimum lot width: 25 feet.
- (3) Yard requirements:

- a. Front yard: 5 feet and the front wall of the building shall not vary more than 5 feet from the average setback of buildings on adjoining properties, provided that any off-street parking spaces that may be required or otherwise provided on the same lot as the building shall be set back at least 25 feet from the front property line.
 - b. Side yards: 10 feet.
 - c. Rear yard: 35 feet.
- (e) *Building height.* 35 feet for principal structures, 15 feet for accessory structures.
- (f) *Utility requirements.* All public utilities located within the C-1 zoning district shall be located underground and shall be designed per the article VI of chapter 30, required installation of public improvements, section 30-157, public utilities installation standards.

(Ord. of 9-21-2006, § 3-12; Ord. of 11-20-2008; Ord. of 9-10-2009; Ord. No. 2009-11-19-01, 11-19-2009; Ord. No. 2010-05-01, 5-13-2010)

Sec. 42-259. C-2 Mixed Use Business District.

- (a) *Scope and purpose.* The provisions of this section apply to the C-2 Mixed Use Business District. The purpose of this district is to permit certain commercial, office, retail type mixed uses which do not in any way detract from the residential desirability of the town. Properties in the C-2 district differ from a property that is zoned as a Town Center Planned Development District and is smaller in size and scale. All properties in the C-2 district shall be subject to the standards set forth in this section.
- (b) *Permitted uses.*
- (1) Art gallery, arts and crafts studio, photography studio, or art or framing store.
 - (2) Banks and financial institutions without drive-through windows.
 - (3) Barber shop, beauty salon or nail salon.
 - (4) Bed and breakfast or country inn subject to section 42-196.
 - (5) Child care center, day care centers or nursery schools subject to section 42-197.
 - (6) Communications and broadcast studio.
 - (7) Construction and/or sales trailer, subject to section 42-201.
 - (8) Dance or fitness studio.
 - (9) Dry cleaner.
 - (10) Electrical, plumbing and building material supply store.
 - (11) Emergency care facility.
 - (12) Fire, rescue and police stations.
 - (13) Fraternal clubs, lodges, and places of assembly operated by nonprofit organizations.
 - (14) Funeral home.
 - (15) Furniture or cabinet making shop.

- (16) Indoor recreational facilities containing not more than 10,000 square feet of gross floor area.
- (17) Libraries, museums, and cultural centers.
- (18) Lumber and/or building material sales without outdoor storage and/or display.
- (19) Medical and health care facilities and clinics.
- (20) Mixed-use dwellings.
- (21) Movie theater or performing arts center.
- (22) Offices, administrative, business or professional.
- (23) Outdoor recreational facility occupying an area of land not exceeding 10,000 square feet.
- (24) Package and parcel services.
- (25) Park, public or private.
- (26) Personal services, not otherwise listed.
- (27) Publishing and printing establishments.
- (28) Restaurants and catering services, including curb service but excluding drive-through windows and related facilities.
- (29) Retail nurseries, greenhouses, farm and garden stores and farmers' markets, subject to the provisions of section 42-257(3).
- (30) Schools, colleges and universities without residential dormitories.
- (31) Schools: technical, trade, vocational, Montessori or business.
- (32) Retail sales establishment, including the following:
 - a. Antique store.
 - b. Automobile parts store.
 - c. Bakery.
 - d. Bookstore.
 - e. Clothing and accessories store.
 - f. Computer or electronics store.
 - g. Convenience stores without fuel sales.
 - h. Fabric store.
 - i. Feed and seed store, excluding silos.
 - j. Florist.
 - k. Furniture and appliance store.
 - l. Gift shop or jewelry store.
 - m. Grocery store and delicatessen.
 - n. Hardware store.
 - o. Hobby store

- p. Lumber supply store.
- q. Music store.
- r. Office supply and stationery store.
- s. Pet supply store.
- t. Pharmacy.
- u. Photographic equipment sales.
- v. Specialty food or beverage store.
- w. Sporting goods and tack stores.

(c) *Conditionally permitted uses.* The following uses may be permitted within the C-2 district, subject to the conditional use permit process and criteria as established in this chapter:

- (1) Art foundries or kilns.
- (2) Automobile sales, used.
- (3) Banks and financial institutions with not more than two drive-through windows.
- (4) Contractors and construction services.
- (5) Convenience stores with fuel sales.
- (6) Light vehicle and automobile repair shops without outdoor storage or displays.
- (7) Microbreweries, cideries, distilleries and wineries.
- (8) Mini-warehouses and self-storage.
- (9) Veterinary hospitals and clinics.
- (10) Wireless communications equipment.

(d) *Lot requirements.*

- (1) Minimum size: 6,000 square feet.
- (2) Minimum lot width: 50 feet.
- (3) Yard requirements:
 - a. Front yard: 25 for lots fronting Berlin Pike; 15 feet for all other lots.
 - b. Side yards: Ten feet.
 - c. Rear yard: 35 feet, except the minimum rear yard shall be 15 feet where a building or structure abuts a parcel located in a commercial or industrial zoning district.

(e) *Building height.* 35 feet for principal structures, 15 feet for accessory structures.

(f) *Utility requirements.* All public utilities located within the C-2 zoning district shall be located underground and shall be designed per the article VI of chapter 30, required installation of public improvements, section 30-157, public utilities installation standards.

(Ord. of 9-21-2006, § 3-13; Ord. of 11-20-2008; Ord. No. 2009-11-19-01, 11-19-2009; Ord. No. 2010-05-01, 5-13-2010; Ord. No. 2012-01-02, 1-26-2012; Ord. No. 2015-12-0001, 12-10-2015; Ord. No. 2016-04-0001, 4-7-2016)

Sec. 42-260. CI-1 Commercial and Limited Industrial/Flex District.

- (a) *Scope and purpose.* The provisions of this section apply to the CI-1 Commercial and Limited Industrial/Flex District. The purpose of this district is to permit certain low-density and small-scale commercial and industrial uses that are well landscaped and screened to minimize adverse conditions to adjacent land uses of all types, and which include appropriate restrictions on outdoor commercial and industrial activities to afford maximum protection to adjacent residential neighborhoods. The uses permitted in the district are intended to promote employment in addition to expansion of economic activity and the Town's tax base. All properties within the Commercial and Limited Industrial/Flex District shall be subject to the standards set forth in this section.
- (b) *Lighting requirements.*
- (1) No canopy or roof fascia of any size or dimension shall be constructed reconstructed, or altered in such manner as to have internal lighting of any kind.
 - (2) All site lighting, if any, shall utilize fully shielded cut-off fixtures and be designed and located so as to prohibit glare onto adjacent properties.
- (c) *Noise/vibration.* Tractor-trailer trucks shall not be left idling prior to 7:00 a.m. and later than 7:00 p.m. Monday through Friday, and prior to 9:00 a.m. and later than 7:00 p.m. on Saturday and Sunday.
- (d) *Permitted uses.*
- (1) Armory, National Guard or Reserve.
 - (2) Art gallery, arts and crafts studio, photography studio, or art or framing store.
 - (3) Automobile washes and detailing, full service.
 - (4) Bakery.
 - (5) Blacksmith shop, welding or machine shop, excluding presses exceeding 40-ton rated capacity and drop hammers.
 - (6) Business incubator centers.
 - (7) Construction and/or sales trailer, subject to section 42-201.
 - (8) Contractors and construction services, including contractors in specialized trades.
 - (9) Electrical, plumbing and building material supply store.
 - (10) Dance or fitness studio.
 - (11) Data centers and similar information technology businesses containing not more than 20,000 square feet of gross floor area.
 - (12) Fabric, quilting and upholstery supplies or services.
 - (13) Feed and seed store, excluding silos.
 - (14) Fire, rescue and police stations.
 - (15) Fraternal clubs, lodges and places of assembly operated by nonprofit organizations.
 - (16) Furniture and appliance store.

- (17) Furniture or cabinet making shop.
- (18) Indoor recreational facility containing not more than 10,000 square feet of gross floor area.
- (19) Light vehicle and automobile repair shop without outdoor storage or displays.
- (20) Liquefied petroleum gas distribution facility, subject to section 42-260(j).
- (21) Lumber supply store.
- (22) Maintenance building and facility, governmental, with no outdoor storage of materials and conducted within a completely-enclosed building.
- (23) Manufacturing, processing, and production of goods, merchandise and equipment within a completely-enclosed building containing not more than 10,000 square feet of gross floor area.
- (24) Medical and health care facilities and clinics.
- (25) Microbreweries, cideries, distilleries and wineries.
- (26) Mini-warehouses and self-storage.
- (27) Outdoor recreational facility occupying an area of land not exceeding 10,000 square feet.
- (28) Package and parcel services.
- (29) Pet/animal daycare and grooming.
- (30) Places of assembly containing not more than 7,500 square feet of gross floor area.
- (31) Public service agency or office.
- (32) Publishing and printing establishments.
- (33) Retail nurseries, greenhouses, farm and garden stores and farmers' markets.
- (34) Restaurants and catering services, including curb service but excluding drive-through windows and related facilities.
- (35) Schools, colleges and universities without residential dormitories.
- (36) Schools, technical, trade, vocational, Montessori or business.
- (37) Transit agencies and transportation service companies.
- (38) Warehouses and wholesale trade uses containing not more than 20,000 square feet of gross floor area.
- (39) Wholesale food and beverage processing containing not more than 10,000 square feet of gross floor area.

(e) *Conditionally permitted uses.* The following uses may be permitted within the CI-1 district, subject to the conditional use permit process and criteria as established in this chapter:

- (1) Any other building, structure or use which, unless otherwise provided in this section, contains more than 20,000 square feet of gross floor area up to a maximum of 40,000 square feet of gross floor area.

- (2) Convention facilities and centers.
- (3) Data centers and similar information technology businesses containing more than 20,000 square feet of gross floor area.
- (4) Feed and seed store, including silos.
- (5) Indoor recreational facility containing more than 10,000 square feet of gross floor area up to a maximum of 40,000 square feet of gross floor area.
- (6) Manufacturing, processing, and production of goods, merchandise and equipment within a completely enclosed building containing more than 10,000 square feet of gross floor area up to a maximum of 40,000 square feet of gross floor area.
- (7) Movie theatre or performing arts center.
- (8) Offices, administrative, business or professional.
- (9) Outdoor recreational facility occupying an area of land exceeding 10,000 square feet.
- (10) Pet/animal boarding.
- (11) Places of assembly containing more than 7,500 square feet of gross floor area.
- (12) Veterinary hospital and clinic.
- (13) Warehouses and wholesale trade uses containing more than 20,000 square feet of gross floor area up to a maximum of 40,000 square feet of gross floor area.
- (14) Wholesale food and beverage processing containing more than 10,000 square feet of gross floor area up to a maximum of 40,000 square feet of gross floor area.
- (15) Wireless communications equipment.

(f) *Prohibited uses.* The following specific uses shall not be permitted in the CI-1 district:

- (1) Animal slaughterhouse.
- (2) Ammonia and chlorine manufacturing.
- (3) Asphalt mixing plant.
- (4) Blast furnace.
- (5) Boiler works.
- (6) Bulk storage of flammable materials, not including liquified petroleum distribution and storage tanks as regulated herein.
- (7) Concrete mixing and batching products.
- (8) Coal or wood distillation.
- (9) Extraction and mining of rocks and minerals.
- (10) Fertilizer, lime or cement manufacturing.
- (11) Fireworks or explosives manufacturing.
- (12) Private garbage incineration.

- (13) Rendering plants.
- (14) Automated salvage and other salvage yards.
- (15) Metal foundries, smelting, processing, fabrication and storage.
- (16) Stockyards.
- (17) Acid manufacture.
- (18) Tanning and curing of skins.
- (19) Petroleum, asphalt or related product refining.
- (20) Private landfills.
- (21) Pesticide manufacturing.
- (22) Herbicide manufacturing.
- (23) Insecticide manufacturing.
- (24) Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause.

(g) *Lot requirements.*

- (1) Minimum size: 10,000 square feet.
- (2) Minimum lot width: 80 feet.
- (3) Yard requirements:
 - a. Front yard: 25 feet.
 - b. Side yards: 10 feet.
 - c. Rear yard: 40 feet minimum setback.
 - d. Buffering and screening: Where property in the CI-1 District is located adjacent to land lying in a residential zoning district, the buffer yard required by Article X of this chapter shall be supplemented with a berm not less than eight (8) feet and not more than ten (10) feet in height, measured from the average grade at the base of the berm to the average height at the crest of the berm, provided that the required height of any such berm may be interrupted by pedestrian trails traversing the berm for the purpose of connecting any property located in the CI-1 District to any adjacent property. Any such berm shall have slopes no steeper than 3:1. The requirements of this subsection shall be subject to the provisions of Section 42-369 authorizing approval of alternative proposals that deviate from the requirements of Article X, provided that the approving authority concludes in writing that the criteria for approval established in that section have been met or exceeded by the proposed development. In addition, the provisions of this subsection shall not apply to the portion of any parcel lying adjacent to property located in a residential zoning district whereby the portion of the residentially-zoned property lying immediately adjacent thereto contains an existing vegetated buffer yard at least 20 feet in width or no existing residential dwellings on the portion of the residentially-zoned property lying immediately adjacent to such existing buffer area, and upon a written finding by the zoning administrator that the applicable

requirements of Section 42-364 for such buffer yards shall be met or exceeded on the subject property by the proposed development thereof.

(h) *Building standards.*

- (1) Height: 35 feet for principal structures, provided that an increase in the height of a principal structure may be permitted up to a maximum of 40 feet with the approval of a conditional use permit; 15 feet for accessory structures.

(i) *Design standards.*

- (1) Buildings shall be oriented to public streets and off-street parking located to the side or in the rear of buildings to the maximum extent feasible. Sidewalks or other pedestrian connections such as shared-use trails shall be provided to connect properties located in the CI-1 District to adjacent properties.
- (2) The facade of any building having a footprint area greater than 10,000 square feet shall be staggered.
- (3) Four-sided, color architectural elevations of all buildings shall be provided for development requiring approval of a rezoning or conditional use permit.
- (4) All uses listed in paragraph (d) and (e) of this section must have access to a road having a functional classification of major collector or higher without having to travel through any residential zoning district located within the Town limits, unless there exists a recorded ingress-egress easement, right-of-way, or other similar recorded legal instrument granting permanent access to any such property as of May 10, 2018.
- (5) To the maximum extent feasible, vehicle service bays, loading bays and garage doors shall not be designed or oriented so as to face adjacent public streets, or any adjacent property located in any residential zoning district.
- (6) All off-street parking and loading areas shall be paved with an asphalt or concrete surface, provided that gravel may be used for surfacing outdoor storage areas.
- (7) The use of environmentally-sustainable and energy-efficient building and/or site design, including related technologies such as rooftop solar, green roofs and micro wind turbines, shall be permitted within the CI-1 District provided their location, specifications and other pertinent details are included on the final site plan for the development. All such rooftop equipment visible from a public street shall be screened from view by a parapet wall not greater than 5 feet in height.

- (j) *Utility requirements.* All public utilities located within the CI-1 zoning district shall be located underground and shall be designed per the article VI of chapter 30, required installation of public improvements, section 30-157, public utilities installation standards.

(Ord. of 9-21-2006, § 3-14; Ord. No. 2008-06-02, 6-26-2008; Ord. of 11-20-2008; Ord. of 9-10-2009; Ord. No. 2009-11-19-01, 11-19-2009; Ord. No. 2010-05-01, 5-13-2010; Ord. No. 2012-01-02, 1-26-2012)

Secs. 42-261—42-277. Reserved.