

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 an accessory dwelling unit established in conjunction with a single-family dwelling use or a principal, non-residential use of a building to which the accessory apartment is subordinate and appurtenant. Accessory apartments may be contained within the principal building containing the single-family use or non-residential use or may be situated within an accessory building located on the property, provided the accessory apartment is clearly subordinate to the principal use of the lot.

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 uses characterized by general active and on-going agricultural activities associated with the tilling of the soil, the raising of crops, non-intensive livestock and horticulture, including agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), forestry, fisheries, honey production, silviculture (including the harvesting of timber), and similar uses. Agriculture does not include a grocery store or the retail or wholesale sale of products remotely related to the production of agricultural products, or to any agricultural processing industry or business such as packing plants, dairies, mills, commercial stables, or similar uses. Accessory uses may include offices, storage areas and repair facilities related to agricultural uses.

Alley means a publicly- or privately-owned or maintained right-of-way which affords a secondary means of vehicular or pedestrian access to more than one abutting property, typically to the rear or side of such abutting property when its principal frontage is on some other street. An alley may also be used for public vehicular, utility, and/or service access.

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 building containing more than two such dwelling units, within a building that may contain residential in addition to non-residential uses, or a dwelling unit within an accessory building. The term "apartment" includes units in apartment houses and apartment buildings.

Apartment houses and apartment buildings means a building arranged, intended, and designed to be occupied by more than two apartments.

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, automobile fuel sales or fuel sales.

- (1) The terms "automobile filling station", "automobile fuel sales" or "fuel sales" mean a building or structure and associated facilities used, or intended to be used, for the retail sale, storage and dispensing of fuels, lubricants, air, water and other operating commodities from fixed facilities into motor vehicles, including the space and facilities for the dispensing of such commodities, but excluding the space and facilities for the storage, repair and servicing of said vehicles, particularly by employees of the establishment.
- (2) The terms "automobile filling station", "automobile fuel sales" or "fuel sales" do not include body repair, painting, steam cleaning, rustproofing or refinishing.

Automobile graveyard or junkyard means an establishment or place of business which is maintained, operated or used for the disposal, storing, keeping, housing or buying of inoperable motor vehicles or junk, or any lot or place, exposed to the weather, upon which more than five inoperable motor vehicles of any kind are placed.

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, whether as a principal or ancillary use of a lot.

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 any area of a building having its floor wholly or partially sub-grade (below ground level) on at least three sides.

Bed and breakfast homestay means a business containing less than three (3) guest rooms or suites, generally conducted in an owner-occupied or operator-occupied, single-family dwelling or detached accessory building, engaged in providing overnight or otherwise temporary lodging (for fewer than 30 days) for transient guests, in which the frequency and volume of paying guests is incidental to the principal use of the building as a private residence. The establishment shall not contain restaurant facilities for use by walk-in, paying customers, but may provide food service to transient guests only.

Bed and breakfast inn or bed and breakfast means a business establishment operated in a structure which is used primarily for providing overnight or otherwise temporary lodging (for fewer than 30 days) and accommodations to transient guests, wherein meals, if any, are served to transient guests only and not to paying, walk-in customers as with restaurants, and which contains no less than three (3) and no more than twelve (12) guest rooms or suites. Typically, the owner or manager lives on the premises even though the building's principal usage is for business purposes.

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 railroad right-of-way, unsubdivided acreage, a perennial stream, or between any of the foregoing and any other physical barrier to the continuity of development, or corporate boundary line of the town.

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 on a parcel of land which remains after the area of the lot located within the minimum yards required by this chapter have been established or met.

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 of any kind.

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.

Business incubator center means a facility dedicated to the start-up, cultivation and growth of small businesses, accomplished through management and facility support systems. For purposes of this definition, management support systems include access to professional advice, information on small business regulations, management, advertising, promotion, marketing, sales, inventory, employees, labor relations, and financial counseling. Facility support systems include clerical and reception staff, cleaning and building security, shared professional office space for use by telecommuters, and access to copy and facsimile machines, computers, faxes, and other electronic equipment.

Camp, day or boarding means the use of a site for provision of indoor or outdoor activities for youth groups and groups of children generally, including sports, arts and crafts, entertainment, recreation, educational activities, swimming, fishing, horseback riding, and incidental food service. Examples include YMCA camps, Boy Scout camps, and Girl Scout camps.

Camper means a portable, detachable unit designed to be carried upon a pickup truck, or a vehicular, portable structure built on a chassis designed to be towed, which is intended as a temporary dwelling for travel, recreation or vacation. The term "camper" includes trailers with rigid or collapsible sides.

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.

Conditional use means an activity, use of a structure, or use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein.

Construction or development means any man-made change, activity or process to improved or unimproved real estate, including but not limited to the erection, fabrication, installation, alteration, reconstruction, or relocation of buildings, structures, streets, parking areas, or utilities. Filling, grading, excavation, mining, dredging, drilling operations, pile driving, paving and similar physical operations on the premises which are required for construction shall be included in this definition, provided that this definition shall not, unless otherwise provided in this chapter, include any repair, modification, alteration or remodeling of buildings and structures which does not otherwise require a zoning permit or building permit.

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 automobile filling stations and automobile fuel sales involving 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 establishment which provides temporary lodging and dining accommodations to transient guests, which contains more than twelve (12) guest rooms or suites and wherein meals are served to walk-in customers in addition to persons lodging at the inn.

Courtyard means an open, unoccupied, unobstructed space, other than a yard or alley, on the same lot as a building or group of buildings which is enclosed on two or more sides by buildings or walls and used primarily for supplying access, light, and air to occupants of said 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.

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, zoning means a geographic area of the town within which certain uses of land and buildings are permitted, whether by-right or as conditional uses, and certain other uses of land and buildings are not permitted or prohibited as set forth in this chapter, and within which zoning regulations and standards governing usage, density, bulk, height, setbacks, coverage and other such standards pertaining to land or buildings are uniform.

Drive-through facility means a building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

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 means the use of a single building on a single lot for two (2) dwelling units, each of which contain separate exterior entrances, provided that this definition shall not include a single-family dwelling containing an accessory apartment as defined herein.

Duplex, vertical, means a single 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 or *dwelling unit* 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, with the exception of semi-independent dwelling units, each containing independent cooking and sleeping facilities and separate exterior entrances. In no case shall a mobile home, motor home, camper, travel trailer, recreational vehicle, automobile, vehicle chassis, tent, or portable building be considered a dwelling unit.

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

Dwelling, detached, means a dwelling that is not attached to any other dwelling by a party wall or walls.

Dwelling, multiple, means a building designed exclusively for occupancy by three or more families living independently of each other in individual dwelling units or apartments. Examples include apartment houses and apartment buildings as herein defined.

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

Dwelling, semi-independent means a dwelling unit within an assisted living facility, each occupied by not more than two residents per unit, at least one of whom is 55 years of age or older.

Dwelling, single-family, means a dwelling occupied, or designed or intended to be occupied, exclusively by one family.

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 upholstery 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. Wayside stands, wherein the principal sales items sold are farm and garden products produced principally on site or other locations (separate parcels) used by the wayside stand operator for farming, shall be included in this definition.

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, gross or *floor area* means the floor area of a building or buildings that is the sum of the gross horizontal areas of the several floors or stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. The gross floor area shall include the area of basements or attics unless the basement, attic or portion thereof has an average floor-to-ceiling height of less than six feet and six inches, or is used for the storage or housing of mechanical equipment 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.

Frontage, lot means the uninterrupted linear or curvilinear extent or side of the lot that abuts a public or private street, provided on a corner lot or double-frontage lot, all sides of a lot adjacent to a street shall be considered lot frontage.

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, parking or *parking structure* means a building or structure or part thereof composed of one or more levels or floors used for the parking of vehicles, but not for the storage of such vehicles, available to the public with or without compensation, or used to accommodate clients, customers or employees. A parking garage may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

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.

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 of the Town of Lovettsville, Virginia.

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").

Height of building. In all zoning districts, the building height shall be calculated as the vertical distance measured from the average elevation of the finished grade adjoining the building at the front wall only to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between the highest eaves and the highest ridge of gambrel, hip and gable roofs.

Home occupation means a business, profession, occupation or trade conducted for gain or support within a residential building or its accessory buildings by a resident of the dwelling which use is incidental and secondary to the use of the buildings for dwelling purposes and which does not change the residential character of such buildings. For the purposes of administering this chapter, a nonresident employee shall be an employee who works either full time or part time for the home occupation, either on the premises or off the premises, but does not reside in the residential dwelling where the home occupation is being conducted.

Hotel means a building containing more than twelve (12) guest rooms or suites where, for compensation, temporary lodging is provided to transient persons, with access to guest rooms or suites primarily from interior lobbies, courtyards, or halls. Additional services such as restaurants, entertainment, and indoor commercial recreational facilities may be included, provided that a convention facility or center shall not be included in this definition.

Infill development means the construction of a building on a vacant parcel located in a predominately developed or built-up area.

Inoperable vehicle means any vehicle as defined in Section 34-5 of the Code of the Town of Lovettsville.

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

Large lot community or development means a community or development containing more than one lot, but fewer than 25 lots, as defined in this chapter which is regulated as to average lot size such that the minimum open space area required in the zoning district where authorized need not be provided in common open space as otherwise required by this chapter.

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 defined herein, may not be stored outdoors. This definition shall not include an "automobile wrecking yard", "automobile graveyard", or "junkyard".

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 liquefied petroleum gas and similar fuels 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 means a drawing meeting the requirements of this chapter which shows where buildings and structures, including additions thereto, and related facilities such as parking areas and driveways, sidewalks and walkways, utilities, and similar physical improvements have been or are to be built on a parcel or site in order to demonstrate that the zoning requirements applicable to the activity and parcel have been or will be met by the owner or applicant.

Lot or parcel means a designated parcel of land, established by plat, subdivision or otherwise permitted by law, occupied or intended for occupancy by a principal building or use permitted by the provisions and requirements of this chapter, which has a frontage on a street or an authorized means of ingress and egress.

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

Lot coverage or *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 of record means a lot or parcel which has been recorded in the clerk's office of the circuit court of Loudoun County, Virginia.

Lot, pipestem means a lot shaped and designed such that the main building site area is set back from the street on which it fronts and has private driveway access to a public street or right-of-way by means of a narrow strip of land called a pipestem which is connected to, and has frontage on, the public street.

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 a building or series of buildings in which temporary lodging is offered for compensation to transient persons, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit. 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. A recreational vehicle shall be considered a motor home consistent with this definition.

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 who is aged, infirm, requiring regular medical attention or suffering from illnesses, diseases, deformities or injuries not requiring surgical, extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital. For the purposes of this definition, mental illness and developmental disabilities shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401.

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 a space which is designed, intended and provided for vehicular parking outside the dedicated street right-of-way, together with vehicular drive aisles, access to a public street or alley, and space for vehicle maneuvering.

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 on- or off-street space in a parking area or parking structure and available for the parking of one motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the parking of permitted vehicles.

Patio means a level surfaced area without permanent walls or a roof, typically made of concrete, brick, masonry, or other impervious material, which is not elevated above the ground surface and designed for use by people for outdoor dining, gathering, social or recreational purposes. A patio shall not be considered a structure for the purposes of administering this chapter.

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

Personal services means establishments primarily engaged in the provision of non-medical, specialized services to customers, generally related to personal needs or of a personal nature. Such businesses shall include, but are not limited to, beauty and barber shops, cleaning and other garment servicing, tailor shops, clothing and shoe rental or repair businesses, tanning and massage facilities, and similar establishments.

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 structure typically supported by columns attached to, and having direct access to or from, a building, and which may be glazed or screened, intended to shelter a building entrance or to serve as a semi-enclosed space for sitting, lounging or gathering.

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.

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 amphitheaters; athletic fields; miniature golf; skateboard park; swimming, bathing, wading and other therapeutic facilities; tennis, handball, basketball courts; and batting cages.

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 or production nurseries and greenhouses means an agricultural and commercial establishment or enterprise where plants, flowers, shrubs, trees, and accessory nursery items and products are grown, produced, displayed and/or sold on a retail basis directly to the customer.

Retail sales establishment 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, must be adjunct to related sales.

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.

Secondhand store means a retail sales establishment primarily engaged in the sale of previously used or donated merchandise, such as clothing, household furnishings or appliances, books, and sports and recreational equipment, but not secondhand motor vehicles, parts or accessories. An antique store shall not be included in this definition.

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. On a pipestem lot, the front setback line shall be determined from the lot line or portion thereof which establishes the main building site area and which lies generally parallel, and is located closest, to the public street, not from the street right-of-way line or lot line where the pipestem abuts the public street.

Spa or hot tub means a non-inflatable, outdoor artificial container of water with a liquid capacity greater than 100 gallons and designed with a mechanical air injection system and/or re-circulating device. These devices may filter and/ or disinfect the water for reuse and are not intended to be drained between uses.

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.

Stable, private means an accessory structure or land use that is designed, arranged, used, or intended to be used for the keeping of equines for the private use of the occupants of a principal dwelling and their guests and not kept for remuneration, hire or sale.

Storage container, temporary 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. A temporary portable storage container shall not be deemed an accessory structure.

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 right-of-way 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 structure, such as foundations, load-bearing walls, columns, beams, floor joists, roof joists, rafters or girders, or any changes in the roof or exterior building walls, but not including such incidental alterations which are of a cosmetic nature and which do not require a building permit.

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.

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.

Townhouse or townhouse building 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.

Use means the purpose or activity for which land or buildings thereon is designated, designed, arranged, or intended, or for which it is occupied or maintained. The term "use" includes any manner or performance of such purpose or activity with respect to the standards and requirements 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, height, area, bulk or location of a building or structure when the strict application of the chapter provisions would unreasonably restrict the utilization of a property, and such need for variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this chapter. A variance shall not include a change in use, which change shall be accomplished by a rezoning, conditional zoning or by a conditional use permit.

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.

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.

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

Yard means an area other than a courtyard located on the same lot with a building or group of buildings, situated between the front, side or rear wall of a building or buildings and the nearest lot line, unobstructed from the ground upward and unoccupied, except by specific uses and structures permitted in such areas 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 front wall of 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, 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, the 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.
- (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 rear wall of the principal building, provided that, on a corner lot, the rear yard shall be that yard situated on the opposite side of the principal building from the side of the building where the primary building entrance is located, extending from the secondary front yard or side yard on the one side to the opposite side lot line at a point closest to the rear wall of the building, and comprising the area of the lot that is not located within the front, secondary front or side yards.

Yard, secondary front (corner lots) means, on a corner lot, the street-side yard that does not contain a building's architectural main entrance. A secondary front yard shall extend from the

principal front yard to the side lot line and shall include the area between the front property line and the front wall of the building.

Yard, side means a yard between the side lot line and the side wall of a principal building extending from the front yard to the rear yard. On a through lot, in the absence of a rear yard, the side yard shall extend between the two front yards.

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 uses, activities and improvements as set forth in this chapter and subject to the provisions and requirements of this chapter applicable thereto.

(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)

Sec. 42-290. Uses and structures permitted in required yards.

Structures, including walls, accessory structures, decks, porches, overhangs, architectural features, balconies, air conditioners, heat pumps, satellite dishes, except for fences, shall not be located on or over any type of easement, whether in public or private or homeowners association ownership, except as provided by the express terms of the instrument creating the easement or approved in writing by the party that holds the easement. A property owner is responsible for repairing or reinstalling a fence in an easement when the fence is damaged, removed or destroyed by the party holding the easement, unless the express terms of the instrument creating the easement or approved in writing by the party that holds the easement states otherwise. No structure shall be allowed in any yard of any district that does not comply with the Virginia Department of Transportation (VDOT) sight distance standards, regulations or requirements and visibility requirements, as contained in section 42-289.

(1) Fences and walls. Fences and walls in yards are subject to the following stipulations: Front yard. Fences and walls shall not exceed three feet in height. For non-residential lots, where a commercial use adjoins a residential use, a fence may be located within the front yard along the side property line and may increase in height by one-half foot increments for every three feet of distance from the sidewalk or property line (whichever is greater), not to exceed six feet in height in any case.

(2) Secondary front yard on corner lots. Fences and walls shall not exceed four feet in height. For residential corner lots, where the secondary front yard is adjacent to a public street, a wall or fence may be four feet in height if it is one foot or more from the property line or public access easement (whichever is greater).

(3) Side yards. Fences and walls in residential districts shall not exceed six feet in height. Fences and walls in non-residential districts shall not exceed eight feet in height.

(4) Rear yards. Fences and walls located on regular lots, other than "through lots", in residential districts shall not exceed six feet in height. For residential "through lots" where the rear yard is adjacent to a public street, a wall or fence may not exceed three feet in height at the public right-of-way and may increase in height by one-half foot increments for every five feet of distance from the right-of-way, not to exceed six feet in height in any case. Fences and walls on non-residential regular, "through lots" or corner lots, may be located within the required rear yard with a height not to exceed eight feet.

(5) When elements such as columns, finials, pillars or posts are part of a wall, they may extend to no more than one foot above the fence itself if these features are no larger than two feet on any one side and such elements are no closer than three feet apart.

(6) Exceptions to height limit. Fences in required side and rear yards of public playgrounds, institutions or schools located in residential districts may not exceed eight feet in height. Fences or walls may exceed the height limit where required to comply with screening provisions of this ordinance or the safety standards of other government regulations.

(7) Prohibited fencing material in residential areas. No barbed wire, electrical elements or other hazardous materials, no fragile or unduly flammable materials and no unfinished concrete or cinder block or other similar unfinished materials shall be maintained as a fence or part of a fence or wall in residential district or abutting a residential district or use, except, however, that underground "invisible" fencing shall be permitted. Fences shall not be of temporary or semi-temporary materials, such as a silt fence, snow fence or construction fence, except for erosion or siltation controls during construction.

(8) Fences shall not create a hazard, impede traffic visibility or be installed within three feet of a fire hydrant.

(9) Fences must be kept in good condition, properly maintained and may not contain any signs, writing or graffiti.

(10) A deck may project into a required side or rear yard, provided that any such deck or portion thereof which projects into any such required yard shall be located not less than fifteen (15) feet from the nearest property lines.

(Ord. of 9-21-2006, § 4-7; Ord. No. 2008-06-01, 6-26-2008; Ord. of 10-14-2010; Ord. No. 2013-02-000, 2-27-2014)