2011

Shenandoah, Texas Integrated Development Code

CITY OF SHENANDOAH TEXAS

- Zoning Ordinance
- Subdivision Ordinance
- Sign Ordinance
- Vegetation Ordinance
- Sexually Oriented Businesses
- Retail Commercial District

FREESE AND NICHOLS

April 13, 2011

City of Shenandoah
Integrated Development Code

This Integrated Development Code (IDC) is published pursuant to City of Shenandoah Ordinances No. _____ and _____, adopted and approved on April 13, 2011. This document is published as a tool for property owners to provide a unified location of land development regulations in one, easily searchable location. Every attempt is made to maintain these documents in a manner identical and consistent with the chapters in the Code of Ordinances of the City of Shenandoah, however, users are advised that there may be interim changes by ordinance that affect this IDC that they must be aware of, ad users are advised to check the city's website or with city staff for any changes or updates.

Publication Date: _____

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2011

Shenandoah, Texas
Chapter 102, Zoning Regulations

CITY OF
SHENANDOAH
TEXAS

FREESE AND NICHOLS

April 13, 2011

Section 1.0 General Provisions

1.1 Short Title

These Regulations shall be known as the City of Shenandoah Zoning Regulations and may be cited as such. Where reference is made to the Subdivision Regulations, to those sections, which shall apply as if they were fully set out in these regulations.

1.2 Authority

These Regulations are adopted pursuant to the authority granted by the U.S. Constitution, the Texas Constitution, and the laws of the State of Texas, specifically including Chapter 211 of the Texas Local Government Code.

1.3 Purpose

The regulations contained herein are necessary:

- to encourage the most appropriate uses of land;
- to maintain and stabilize the value of property;
- to reduce fire hazards and improve public safety and safeguard the public health;
- to decrease traffic congestion and its accompanying hazards;
- to prevent undue concentration of population; and
- to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities.

The provisions of these Regulations shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.

1.4 Nature and Application

These Regulations classify and regulate the use of land, buildings, and structures within the city limits of the City of Shenandoah, State of Texas, as hereinafter set forth.

1.5 Scope and Jurisdiction

1.5.1 *Uniform Application*

The interpretation and application of these Regulations shall apply to all properties within the corporate limits of Shenandoah and lands that may be annexed by the City. The use of all land and any buildings or structures located upon the land; and the construction, reconstruction, alteration, expansion, or relocation of any buildings or structures upon the land shall conform to all regulations applicable to the zone in which the land is located, except as otherwise provided in these Regulations.

1.5.2 *Validity of other Law, Plat, Deed Restrictions, and/or Covenants*

Where these Regulations impose greater restrictions than are imposed by other ordinances, laws or regulations, the provisions of these Regulations shall govern. Nothing in these Regulations shall be construed to prevent the enforcement of other ordinances, laws, or regulations, which prescribe more restrictive limitations; further, these Regulations shall not be construed to prevent the enforcement of plat restrictions, deed restrictions, and declarations of covenants and restrictions by private parties that may be more restrictive.

1.5.3 *Zoning Upon Annexation*

(a) *Initial zoning classification for all annexations*

Following annexation by the City until a final zoning action has been adopted, the classification of the land shall be considered to be Interim Zoning ("IZ"), and all zoning and development

regulations of the "IZ" district shall be adhered to with respect to the development and use of the land. Zoning approval and adoption of the ordinance establishing zoning must occur after annexation approval and as a separate and distinct action by the City Council, hereinafter referred to as "Council." For any period of time following official annexation by the City until approval of a final zoning, the interim zoning of the land shall be considered to be Interim Zoning ("IZ"), and all zoning and development regulations of the "IZ" zoning district shall be adhered to with respect to the development and use of the land.

(b) *Final Zoning Request at the time of Annexation*

Any landowner may submit a zoning application simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification. Land shall be zoned in accordance with the adopted Shenandoah Comprehensive Plan, unless such plan is modified by the Council.

(c) *Final Zoning and Necessary Studies*

(1) The City shall strive to perform necessary studies and zone the tract to the final zoning within one year from the effective date of the annexation ordinance. This zoning shall be deemed the initial zoning of the property. However, land that is determined by the Council to be "premature" for development include determinations of a lack of utilities, drainage or access may be left "IZ" until such time as the situation is remedied.

(2) Within this one-year period of time, the Council may instruct the Commission, hereinafter referred to as the "Commission," to study and make recommendations concerning the use of land within said annexation to promote the general welfare and to be in accordance with the comprehensive plan**.**

(3) Upon receipt of such recommendations, the Council shall, after public hearings as required by law, establish the final district classification of said annexed property; provided, however, that this shall not be construed as preventing the Council from holding public hearings prior to annexation and establishing the district classification at the time of said annexation.

The final zoning of a land parcel, whether by initiation of the landowner or by initiation of the City, must meet the requirements for notification and public hearings as set forth in Section 7.1 Universal Procedures of these Regulations and all other applicable State laws.

(d) *Development Within an area classified as "IZ" (Interim Zoning)*

(1) No permit for the construction of a building or use of land shall be issued by the Building Official, or his/her designee, other than a permit which will allow the construction of a building or use permitted in the "IZ" district, unless and until such territory has been classified in a final zoning district other than the "IZ" district by the Council in the manner prescribed by Section 7.1 Universal Procedures, except as provided in Subsection (2) below.

(2) If plans and preparations for developing a property for a use other than those specified in the "IZ" district were in progress prior to annexation of the property into the City of Shenandoah, in accordance with Section 7.10 Vested Rights, Petition, and Review Procedure, vesting, then the Council may authorize construction of the project by a majority vote, upon submission of evidence for the following.

a. The applicant has the burden of proof to demonstrate that plans or other preparations for developing the property commenced prior to the date of annexation into the City.

b. In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the Council shall take into consideration the appropriate land use for the area as shown on the City's Future Land Use Plan

(3) Existing land uses shall be allowed to continue in conformance with the vesting provisions of Chapter 245 of the Texas Local Government Code and Section 7.9 Non-conforming Buildings, Structures and Uses of Land of these Regulations.

1.5.4 *Effect on Public Lands*

All property owned, leased, or operated by the City, or any other public or governmental body or agency within the zoning jurisdiction, shall be subject to the terms of these Regulations to the extent that the law allows.

1.6 Zoning District Authorization

The City is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the Zoning District Map of the City, which may be cited as the Zoning Map.

1.6.1 *Zoning Districts as set forth are Hereby Established*

The location and boundaries of the various districts as defined herein shall be shown and delineated on the official Zoning District Map of the City of Shenandoah. The official Zoning District Map shall be maintained by the Community Development Director. The map may be divided into parts or sections. Said parts may be separately maintained for identification purposes when adopting or amending the official Zoning District Map. Copies of the official Zoning Map may be made but shall be dated and clearly identified as a copy. In the event of a disparity between copy and the official Zoning District Map, the latter shall control.

1.6.2 *Effect of Zoning District Change*

The reclassification of property to a new zoning district shall be an amendment of the official Zoning District Map and shall be so recorded.

1.6.3 *Delineation of Zoning District Boundaries and Applicable Regulations*

(a) *Zoning district boundary lines*

Zoning district boundary lines are shown on the official Zoning Map and as may be amended. .

(b) *Where a property abuts a public or private street*

Where a property abuts a public or private street, the district boundary shall be considered to extend to the centerline of said right-of-way, whether or not the legal description of the adopted ordinance of rezoning includes said street.

(c) *Calculation from the right-of-way line*

For purposes of applying the development regulations of an individual zoning district, all such requirements shall be calculated from the nearest property line and/or nearest right-of-way line delineating a street.

1.6.4 *Interpretation of District Boundaries*

When uncertainty exists as to the boundaries of the districts on the official Zoning District Map, the following rules apply:

(a) *Center lines*

Boundaries indicated, as approximately following the centerlines of streets or highways, shall be construed to follow such centerlines.

(b) *Platted lot lines*

Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(c) *City limit lines*

Boundaries indicated as approximately following city limits shall be construed as following such city limits.

(d) *Railroad lines*

Boundaries indicated as following railroad lines shall be construed to be the middle of the railroad easement or right-of-way.

(e) *Shorelines*

Boundaries indicated as following shore lines shall be construed to follow such shorelines, and in the event of change in the shorelines, shall be construed as moving with the actual shoreline, or as otherwise set forth by State law. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

(f) *Parallel or extension boundaries*

Boundaries indicated as parallel to or extension of features indicated in Subsections (a) Centerlines through (e) Shorelines, shall be so construed. Distances not specifically indicated on the official Zoning District Map shall be determined by the scale of the map.

(g) *Community Development Boundary interpretation*

Where physical features existing on the ground are at variance with those shown on the official Zoning District Map, or in other circumstances not covered by Subsections (a) Centerlines through (e)shorelines, the Community Development Director or their designee shall interpret the district boundaries and require its inclusion on the official Zoning District Map. Appeal of their decision would be to the Board.

(h) *Extension of regulations for split lots*

Where a district boundary line divides a lot that was in single ownership at the time of passage of these Regulations, the Board may permit as a special exception the extension of the regulations for either portion of the lot, not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

1.6.5 *Accretion by Vacation of Public Easements*

Whenever any street or other public easement is vacated, the vacated street or public easement shall be classified as the same zoning district in which the street or public easement accrues.

1.7 Interpretation of Text/Requirements

In the event of any question as to the interpretation of the text and related requirements of these regulations, the Community Development Director or their designee shall have the authority to make the final interpretation, subject to the right of appeal to the Board.

1.7.1 *Determination Criteria*

In making such determinations, the Community Development Director or their designee shall consider the definitions in Section 8 and other appropriate requirements in these regulations. Characteristics of the particular use in question, and shall consider any functional, product, service, or physical facility requirements in common with or similar to uses cited as examples of use classifications.

1.7.2 *Interpretation*

Drawings are included in these regulations to be illustrative or as an example of a requirement or concept in the text. The text shall control any conflicts between text and graphic illustrations.

Section 2.0 Zoning Districts

2.1 General Provisions

The purpose of this section is to create zoning districts, to specify the nature and components of the permitted development within them, and to establish regulations regarding the physical character and intensity of development in order to protect the public health, safety and welfare.

2.1.1 *Zoning Districts Established*

All land within the corporate limits of Shenandoah shall be classified into one (1) of the following zoning districts.

Table 2.1.1

Zoning Districts

District Abbreviation	District Name
IZ	Interim Zoning District
R-35	Single-Family Detached Residential District; 35,000 sq.ft. lots
R-22	Single-Family Detached Residential District; 22,000 sq.ft. lots
R-10	Single-Family Detached Residential District; 10,000 sq.ft. lots
R-1	Single-Family Detached Residential District; 8,000 sq.ft. lots
R-6	Single-Family Detached Residential District; 6,000 sq.ft. lots
R-2	Medium Density Residential District
R-3	High Density Residential District
R-HD	Higher Density Residential District
R-MH-1	Manufactured Home Subdivision District
R-MH-2	Manufactured Home Park District
MIX	Mixed Use Overlay District
RC	Retail/Commercial District
SPH	Sports/Hospitality District
O-1	Restricted Office District
OC	Office/Commercial District
NS	Neighborhood Service District
C-2	Planned Shopping Center District
C-3	Community Commercial District
CC	Commercial Corridor District
LI	Light Industrial District
I-2	Moderate Industrial District
I-3	Heavy Industrial District
PDD	Planned Development District

2.2 IZ, Interim Zoning District

2.2.1 General Description

The purpose of this district is as an interim or temporary zoning district upon annexation until the final zoning is approved by the Council. Only temporary agricultural or low intensity uses as listed in the allowed uses of this district will be permitted.

2.2.2 District Use Regulations

Property and buildings in the IZ, Interim Zoning District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart. If plans and preparations for developing a property for a use other than those specified in the "IZ" district were in progress prior to annexation of the property into the City of Shenandoah, in accordance with Section 7.10 Vested Rights, Petition, and Review Procedure, vesting, then the Council may authorize construction of the project in accordance with Section 1.5.3 Zoning Upon Annexation.

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included

2.3 R-35, Single-Family Detached Residential District

2.3.1 General Description

The R-35, Single-Family Detached Residential District is intended for single-family residences on lots of not less than 35,000 square feet in size. This district is estimated to yield a maximum density of 0.9 gross dwelling units per acre (DUA).

Additional uses for the district shall include churches, schools and public parks in logical neighborhood units.

2.3.2 District Use Regulations

Property and buildings in the R-35, Single-Family Detached Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.3.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements.

2.4 R-22, Single-Family Detached Residential District

2.4.1 General Description

The R-22, Single-Family Detached Residential District is intended for single-family residences on lots of not less than 22,000 square feet in size. This district is estimated to yield a maximum density of 1.4 gross dwelling units per acre (DUA).

Additional uses for the district shall include churches, schools and public parks in logical neighborhood units.

2.4.2 District Use Regulations

Property and buildings in the R-22, Single-Family Detached Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.4.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

2.5 R-10, Single-Family Detached Residential District

2.5.1 General Description

The R-10, Single-Family Detached Residential District is intended for single-family residences on lots of not less than 10,000 square feet in size. This district is estimated to yield a maximum density of 3.1 gross dwelling units per acre (DUA).

Additional uses for the district shall include churches, schools and public parks in logical neighborhood units.

2.5.2 District Use Regulations

Property and buildings in the R-10, Single-Family Detached Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.5.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section of which Table 5.3.2.(c) Specific Parking Requirements is included.

2.6 R-1, Single-Family Detached Residential District

2.6.1 General Description

The R-1, Single-Family Detached Residential District is intended for single-family residences on lots of not less than 8,000 square feet in size. This district is estimated to yield a maximum density of 3.9 gross dwelling units per acre (DUA).

Additional uses for the district shall include churches, schools and public parks in logical neighborhood units.

2.6.2 District Use Regulations

Property and buildings in the R-1, Single-Family Detached Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.6.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

2.7 R-6, Single-Family Detached Residential District

2.7.1 General Description

The R-6, Single-Family Detached Residential District is intended for single-family residences on lots of not less than 6,000 square feet in size. This district is estimated to yield a maximum density of 5.1 gross dwelling units per acre (DUA).

Additional uses for the district shall include churches, schools and public parks in logical neighborhood units.

2.7.2 District Use Regulations

Property and buildings in the R-6, Single-Family Detached Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.7.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

2.8 R-2, Medium Density Residential District

2.8.1 General Description

This district allows two family attached dwellings that are compatible in scale and design with adjacent single-family districts. The principal use of land is for two family attached dwellings with provisions for accommodating the sale of individual attached units.

Related recreational, religious, and educational uses normally located to service residential areas are also permitted to provide the basic elements of convenient, balanced, and attractive living areas.

Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship and arrangement of each element.

2.8.2 District Use Regulations

Property and buildings in the R-2, Medium Density Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.8.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

2.9 R-3, High Density Residential District

2.9.1 General Description

This is a residential district to provide for medium density housing ranging from ten (10) to twenty four (24) dwelling units per gross acre. The principal use of land is for townhouses and low-rise multifamily dwellings.

Related recreational, religious, and educational uses normally located to service residential areas are also permitted to provide the basic elements of convenient, balanced, and attractive living areas.

2.9.2 District Use Regulations

Property and buildings in the R-3, High Density Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.9.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(c) *Site plan*

A site plan shall be prepared in accordance with Section 7.5 Site Plan for any Section 4.2.3 Townhouse (Single-Family Attached), Section 4.2.4 Multifamily Residential, or Section 4.2.8 Group Residential type use.

2.10 R-HD, Highest Density Residential District

2.10.1 General Description

This residential district is intended to provide for a density of more than twenty four (24) units per gross acre. The principal use of land is for a wide variety of dwelling types, including townhouses, low-rise multifamily dwellings, and high-rise apartments.

Related recreational, religious, and educational uses normally located to service residential areas also are permitted to provide the basic elements of convenient, balanced, and attractive living areas.

2.10.2 District Use Regulations

Property and buildings in the R-HD, Highest Density Residential District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.10.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(c) *Site plan*

A site plan shall be prepared in accordance with Section 7.5 Site Plan for any Section 4.2.3 Townhouse (Single-Family Attached), Section 4.2.4 Multifamily Residential, or Section 4.2.8 Group Residential type use.

2.11 R-MH, Manufactured Home District

2.11.1 General Description

This district permits locations for manufactured home parks and subdivisions that, while providing a residential environment, are not generally compatible with normal single-family and two family residential developments. These parks are under single ownership and provide leased or rented manufactured home spaces. Subdivisions are for manufactured homes only.

This district should provide for an orderly arrangement of home sites in manufactured home parks and subdivisions that have been located and designed in a manner that will promote and protect the health, safety, and general welfare of the residents.

2.11.2 *District Use Regulations*

Property and buildings in the R-MH-2, Manufactured Home District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.11.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Minimum Manufactured Home Park and subdivision size and standards*

The minimum area of any park or subdivision shall be five (5) acres. A minimum subdivision size is established to assure that sufficiency of compatible housing types can be established to create a desirable environment and provide separation from conventional housing areas that may be nearby.

(c) *Maximum intensity of development*

Intensity of development shall be limited to no more than ten (10) manufactured homes per gross acre for a manufactured home park or subdivision and no more than fifteen (15) travel trailers per gross acre for a travel trailer park.

(d) *Manufactured home spaces*

Each manufactured home and travel trailer space and/or lot shall have a minimum of not less than five thousand (5,000) square feet exclusive of parkland, access drive right-of-way and any other area that is a part of a community facility.

(e) *Screening and landscaping requirements*

Manufactured home subdivisions shall be screened and landscaped in accordance with the provisions in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(f) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(g) *Site plan*

A site plan shall be prepared in accordance with Section 7.5 Site Plan.

2.12 MIX, Mixed Use Overlay District

2.12.1 *General Description*

The MIX, Mixed Use Overlay District is intended to permit establishment of integrated residential and non-residential activities where appropriate and desirable, under conditions that assure an acceptable level of harmony among land uses.

(a) *Mixed Use Overlay District*

The Shenandoah Mixed Use Overlay District was created to provide a framework to allow cohesive and orderly mixed use developments within the City of Shenandoah. “Mixed Use” refers to a development style that creates areas that combine residential, retail, office and public uses

in the same building, same lot, same tract, and/or same block. Mixed Use design encourages development that promotes pedestrian-oriented scales, a sense of community, quality architectural design, heightened visual quality, and increased quality of life.

The MIX Overlay District was created to provide flexibility in uses that are contained within a site that promotes a particular style of architecture. Buildings within MIX Overlay Districts should contain certain forms and materials in order to create a unique sense of place. The District should establish a community character through examples in urban design land uses, site design, circulation, architectural elements and landscape concepts. Appropriate flexibility in final design is given to developers and designers to allow creativity for the opportunities associated with individual sites.

(b) *The MIX, Mixed Use Overlay District supplements or modifies the standards of the underlying zoning districts.*

The MIX, Mixed Use Overlay District shall be considered appropriate when in accordance with at least one of the following objectives:

- Protect residential neighborhoods from encroachment of incompatible commercial, office, and industrial activities;
- Promote development of vacant, bypassed lots in harmony with adjacent land use and the surrounding environment;
- Encourage rehabilitation of older residential structures that are no longer economically attractive for single-family residential use;
- Create land use patterns that promote energy and fiscal efficiency, and that increase the accessibility of daily activities; and,
- Create a mechanism for furthering adopted policies within the comprehensive plan for various centers of activity.

The MIX, Mixed Use Overlay District allows for more flexible locations for a variety of land use activities. Unlike the traditional zoning districts, compatible land use patterns within the MIX, Mixed Use Overlay District should generally not be achieved through the separation of different uses, but through more sensitive building and site design.

2.12.2 *District Use Regulations*

(a) *Permitted Districts*

(1) The Mixed Use Overlay District may only be utilized to Overlay the R-3, R-HD, RC, SPH, OC, C-2, C-3 and CC districts.

(2) It may not be used to overlay any Single-family, Industrial, O-1 or NS districts.

(b) *Permitted Uses*

Property and buildings in the MIX, Mixed Use Overlay District shall be used only for the purposes listed within the underlying zoning district and as modified by the MIX, Mixed Use Overlay District as listed within the use chart of Section 4.9.2 Use Chart. These uses may include:

(1) A mixture of Retail Uses and Office Uses as specified in the Use Charts.

(2) Residential Uses as specified in the Use Charts.

a. Multiple-Family Dwellings greater than six (6) units per building and may consist of apartment dwelling units, condominiums, lofts and/or flats.

b. For buildings adjacent to arterial, major collector, and collector streets as defined in the City of Shenandoah Paving Design Manual and Adopted Thoroughfare Plans, ground floors must contain non-residential uses in conformance with Section 7.4 Mixed Use Overlay District Approval and Specific Regulations.

c. Interior buildings, or buildings located behind buildings that are adjacent to arterial, major collector, and collector streets; ground floors may consist entirely of residential uses.

(3) MIX developments, as provided in the concept plan, which is greater than 3 acres shall include a mix of uses. The mix of uses shall include at a minimum residential as well as retail and/or office. Of these uses, none shall be less than 20% of the total building square footage of the development.

(4) Single-family detached, homes are not permitted in the MIX Overlay District.

2.12.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards for the base zoning district listed within either Table 3.2 Area Regulations and Standards for Residential Districts or Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts unless otherwise specified in Section 7.4 Mixed Use Overlay District Approval and Specific Regulations.

(b) *Development Regulations for Mixed Use Developments*

For MIX projects that include a mixture of residential and non-residential uses, the standards within either Table 3.2 Area Regulations and Standards for Residential Districts or Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts or in Section 7.4 Mixed Use Overlay District Approval and Specific Regulations shall apply. In case of conflict, the requirements in Section 7.4 Mixed Use Overlay District Approval and Specific Regulations shall control.

(c) *Minimum area for required for the MIX Overlay District*

The minimum area for a change in zoning district shall be three (3) acres.

(d) *Site Plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan.

2.13 RC, Retail Commercial District

2.13.1 *General Description*

The RC district is intended for the areas suitable for mixed use type developments as requested by the property owners. These areas are highly visible to these principal roadways and sufficiently separated from low-density residential areas. For this reason, these areas are suitable for intensive, larger-scale developments. The primary purpose of this district is to permit uses that generate retail sales. Other uses are permitted in mixed use structures subject to the applicable standards of the district. To encourage greater intensity, there are floor area bonuses for retail and mixed use, structured parking, and increased building height.

2.13.2 *District Use Regulations*

Property and buildings in the RC, Retail Commercial District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart and as listed in 4.10.8 Retail Commercial (RC) District Special Regulations.

2.13.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts and Section 4.10.8 Retail Commercial (RC) District Special Regulations.

(b) *Screening and landscaping requirements*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances and Section 4.10.8 Retail Commercial (RC) District Special Regulations.

(c) *Off-Street Parking*

(1) All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(2) Parking Reduction. In order to account for the multiple transportation options, the number of parking spaces required in Section 5.3 Parking, Loading, and Driveway Access may be reduced by thirty-three (33) percent for each use.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan and Section 4.10.8 Retail Commercial (RC) District Special Regulations. The landscaping required above in Section 2.13.3(b) Screening and landscaping requirements and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances shall be shown on the site plan.

2.14 SPH, Sports/Hospitality District

2.14.1 *General Description*

The SPH, Sports Hospitality District is intended to provide a dynamic environment centered on sports and tourist activities such as sporting events and venues, conferences, events, and meetings. The district will provide uses compatible with the sporting and tourism industry, such as hotels and restaurants.

2.14.2 *District Use Regulations*

Property and buildings in the SPH, Sports/Hospitality District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.14.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirements*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 5.2 Screening and Landscaping and of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading, and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping required above in Section 2.14.3(b) Screening and landscaping requirements and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances shall be shown on the site plan.

2.15 O-1, Restricted Office District

2.15.1 General Description

This commercial district is intended to provide a location for administrative and professional offices that can occupy low-rise structures in a low-density landscaped setting.

This district places a great emphasis on open spaces and aesthetic considerations in building construction and landscaping.

Development in this district can serve as a buffer between residential areas and other land uses.

2.15.2 District Use Regulations

Property and buildings in the O-1, Restricted Office District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.15.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirement*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Sections 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access

of which Table 5.3.2.(e) Specific Parking Requirements is included.

(c) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping required in Section 2.15.3(b) Screening and landscaping requirement and Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

2.16 OC, Office/Commercial District

2.16.1 *General Description*

The OC office/commercial district intended to provide suitable areas for the development of higher intensity or higher density commercial or office uses which are generally incompatible with residential development due to height, bulk, heavy traffic generation, noise emissions or other incompatible features. Such commercial uses include uses dealing with services to other businesses and vehicular related activities. Any loading and/or service areas within the OC district shall be properly screened from adjacent uses.

This commercial district is intended to provide a location for offices at a higher density than that allowed in the restricted office district.

This district places an emphasis on building location and design in conjunction with landscaping.

This district should be located and designed so that it can be used as a buffer between residential areas and more intense land use activities.

2.16.2 *District Use Regulations*

Property and buildings in the OC, Office/Commercial District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.16.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirements*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading, and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping required in Section 2.16.3(b) Screening and landscaping requirements,

Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

2.17 NS, Neighborhood Service District

2.17.1 *General Description*

The NS neighborhood service district is intended to provide for suitable areas for the development of low intensity commercial or office uses on appropriately designed and attractively landscaped sites. The primary uses allowed in the NS district shall be uses used on a daily basis by residents living in neighboring residential districts. Developments in the NS district shall normally abide by stricter development controls and shall be of a nature that does not generally conflict with adjacent lower intensity uses.

This district is intended to provide a location for a limited number of retail commercial goods and personal services that serve the day-to-day needs of the residents of surrounding neighborhoods.

Because these shops and offices are lower intensity uses, they may be designed to be located along arterial streets in close proximity to housing areas or as limited service facilities in larger planned high-density housing areas.

This district is limited to the types of uses that will not cause an adverse impact (i.e. noise, lighting, traffic) upon the surrounding area. Outdoor storage and display is not permitted.

2.17.2 *District Use Regulations*

Property and buildings in the NS, Neighborhood Service District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.17.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirement*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping required in Section 2.17.3(b) Screening and landscaping requirement,

Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances shall be shown on the site plan.

2.18 C-2, Planned Shopping Center District

2.18.1 *General Description*

This commercial district is intended to provide for a unified grouping, in one (1) or more buildings, of retail shops, stores, and offices that are planned and developed as an operating unit and under single or multiple ownership.

A development will typically contain such features as shared parking, driveways, and common facilities, adequate setbacks and landscaping, and sufficient on-site parking for customers and employees.

Outdoor storage and display is not permitted.

2.18.2 *District Use Regulations*

Property and buildings in the C-2, Planned Shopping Center District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.18.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirements*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping required in Section 2.18.3(b) Screening and landscaping requirements, Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances shall be shown on the site plan.

2.19 C-3, Community Commercial District

2.19.1 General Description

This commercial district is intended for the conduct of business activity which is located at the edge of residential areas but which serves a larger trade area than the immediately surrounding residential neighborhoods.

Business uses will most often be found in a wide variety of commercial structures, normally on individual sites with separate ingress, egress, and parking. Because of the varied uses permitted, it is important to be separated as much as possible visually and physically from any nearby residential areas and to limit the harmful effects of increased traffic, noise, and general non-residential activity that will be generated.

Limited outdoor storage, as defined below, and limited open display, as defined below, shall be permitted.

Traffic generated by the uses permitted shall be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

2.19.2 District Use Regulations

Property and buildings in the C-3, Community Commercial District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.19.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Additional standards for Section 4.4.23 Construction Sales and Services*

Outdoor storage is prohibited for this use type within this district.

(c) *Additional standards for Section 4.4.12 Automotive Sales and Rentals: Light*

Outdoor sales are prohibited for this use type within this district.

(d) *Limited outdoor storage*

Limited outdoor storage shall be permitted under the following conditions:

(1) Storage area must abut on the side or rear of a building being used by the person or firm desiring use of the outdoor storage area unless a fire lane must be maintained next to the building; if so, outdoor storage should be directly adjacent to the fire lane.

(2) Storage area cannot exceed ten (10) percent of the gross floor area of the space occupied by the person or firm immediately adjacent thereto.

(3) Storage must be on an improved surface and shall not be in the designated parking lot area for the business or location.

(4) Storage area must be screened by a sight proof fence conforming to Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of these Regulations, except that the fence shall be eight (8) feet in height. Screening requirements shall not apply to vehicles or trailers maintaining a current certificate of registration and safety inspection certificate. Such current registration and certificate of

safety inspection shall be shown on the vehicle or trailer.

(5) Storage must be incidental to the abutting business.

(6) All other requirements of the ordinances of Shenandoah shall apply.

(e) *Limited permanent outdoor display*

Limited permanent outdoor display shall be permitted under the following conditions:

(1) Permanent limited outdoor display of merchandise or amusements on the sidewalk is limited to an area immediately in front of the occupied premises, and at all times a four-foot pedestrian aisle way, free of obstructions, shall be maintained.

(2) Permanent limited outdoor display on a sidewalk shall be limited to coin operated merchandise dispensing devices, newspaper racks, ice dispensers or machines or coin operated children's amusements such as pony ride machines. Said display of amusements or coin-operated merchandise dispensing devices shall be limited to five (5) such devices of one type or another, or combinations of said devices not to exceed five (5) for each individual business; newspaper racks shall not be counted in determining total allowed devices. The above description of devices is not intended to be all-inclusive but is intended to give a general example of the types of devices permitted.

(3) No permanent display of merchandise of any type will be permitted in a designated parking lot area unless minimum parking requirements are met and shall not exceed ten (10) percent of gross floor area of the business.

(4) No permanent display of amusement devices are permitted in any designated parking area.

(5) All other requirements of the ordinances of Shenandoah shall apply.

(f) *Temporary display of merchandise or amusements*

Temporary display of merchandise or amusements shall be permitted on a sidewalk or in a parking lot under the following conditions:

(1) Must be incidental to the business utilizing such display.

(2) Must be on the sidewalk or parking lot immediately in front of or beside said business.

(3) If on a sidewalk, a four-foot pedestrian aisle way shall be maintained at all times.

(4) Shall not exceed seven (7) days during a calendar month except that seasonal merchandise may be maintained on the sidewalk or parking lot for the normal season of said merchandise.

(5) Merchandise displayed in the parking lot shall not exceed ten (10) percent of the gross area of the business and shall not reduce the required number of parking spaces below the minimum required by these Regulations.

(6) All other requirements of the ordinances of Shenandoah shall apply.

(g) *Screening and landscaping requirements*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Section 5.2, Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(h) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(i) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping required above in Section 2.19.3 (g) Screening and landscaping requirements and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances shall be shown on the site plan.

2.20 CC, Commercial Corridor District

2.20.1 *General Description*

This commercial district is designed for the conduct of personal and business services and the general retail trade of the community and the surrounding area.

Because the permitted uses may serve and employ large numbers of people, the activities conducted and traffic generated make this district very incompatible with residential development.

Therefore, this district should be utilized at points of direct access from freeways, expressways, and arterial intersections, or in areas identified for heavy commercial activity that will be well separated from nearby residential areas. Outdoor storage and display is permitted.

2.20.2 *District Use Regulations*

Property and buildings in the CC, Commercial Corridor District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.20.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirement*

Property abutting a residential district shall be screened and landscaped in accordance with all the provisions Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, property not adjacent to a residential district shall be landscaped in accordance with the provisions in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan. The landscaping requirements above in Section 2.20.3 (b) Screening and landscaping requirement, Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98,

Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances shall be shown on the site plan.

2.21 LI, Light Industrial District

2.21.1 General Description

This industrial district is intended to accommodate low impact industrial development. Noise, odor, dust, and glare produced should be confined within an enclosed building, as well as any manufacturing, assembly, repair or work activity.

These industrial uses may require proper accessibility to air, rail, or street transportation routes, but the size and volume of the raw materials and finished products should not be as great as that produced by uses in the moderate and heavy industrial districts.

Outdoor storage of materials or products not actively offered for sale is permitted, but will require sight proof screening.

2.21.2 District Use Regulations

Property and buildings in the Section 2.21, LI, Light Industrial District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.21.3 Development Regulations

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirement*

Property abutting a residential district shall be screened and landscaped in accordance with the provisions of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

2.22 I-2, Moderate Industrial District

2.22.1 General Description

This industrial district is intended primarily for the conduct of light manufacturing, assembling, and fabrication, and for warehousing, wholesale, and service uses that may generate relatively low levels of noise, odor, smoke, dust, or intense light.

Industrial uses permitted may require proper accessibility to air, rail, or street transportation routes, but do not depend heavily on frequent personal visits of customers or clients.

Provision is also made for outdoor operations and storage.

2.22.2 *District Use Regulations*

Property and buildings in the Section 2.22, I-2, Moderate Industrial District, shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.22.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirement*

Property abutting a residential district shall be screened and landscaped in accordance with the provisions of Section 5.2 Screening and Landscaping, Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading, and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances

2.23 I-3, Heavy Industrial District

2.23.1 *General Description*

This industrial district is intended to provide locations for those industrial uses that may generate relatively high levels of noise, vibrations, smoke, dust, odor, or light.

The industrial uses permitted in this district are generally incompatible with residential uses. For this reason, it is desirable that they be located down wind and as far away as possible from residential, office, and most commercial uses.

2.23.2 *District Use Regulations*

Property and buildings in the Section 2.23, I-3, Heavy Industrial District shall be used only for the purposes listed within the use chart of Section 4.9.2 Use Chart.

2.23.3 *Development Regulations*

(a) *Area Regulations and Standards*

Property and buildings shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

(b) *Screening and landscaping requirement*

Property abutting a residential district shall be screened and landscaped in accordance with the provisions of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Off-street parking, loading, and access*

All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included.

(d) *Site plan*

A site plan shall be developed in accordance with the provisions contained in Section 7.5 Site Plan and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

2.24 PDD, Planned Development District

2.24.1 General Provisions

The planned unit development, herein referred to as PDD, is a special zoning district category that provides an alternate approach to conventional land use controls to produce unique, creative, progressive, and quality land developments. The PDD is intended to provide significant design flexibility in order to encourage innovative and /or mixed-use developments within the city that would not otherwise be permitted under this chapter, and is not intended for nominal changes to the existing ordinance requirements that are established in the various zoning districts. The PDD allows for deviation from standard ordinance requirements as long as such deviations continue to meet the intent of this chapter. The PDD allows for an appropriate combination of uses, which may be planned, developed or operated as integral land units, such as developments that incorporate various types of residential and non-residential uses into the overall project.

The PDD may be used for particular tracts or parcels of land that are under common ownership and are to be developed as one unit according to a master development plan.

The PDD is subject to special review procedures within this Section, and once approved by the Council it becomes a special zoning classification for the property it represents.

2.24.2 Intent and Purpose

The intent and purpose of the Planned Development District provisions are as follows:

(a) *Innovative land development*

Encourage innovative land development while maintaining appropriate limitations on the character and intensity of use, assuring compatibility with adjoining and proximate properties, and following the guidelines of the comprehensive plan.

(b) *Flexibility within developments*

Permit flexibility within the development to maximize the unique physical features of the particular site.

(c) *Efficient use of land*

Encourage efficient use of land, facilitate economic arrangement of buildings and circulation systems, and encourage diversified living environments and land uses.

(d) *Function, design, and diversity*

Achieve a continuity of function and design within the development, and encourage diversified living environments and land uses.

(e) *Modifications to development requirements*

Provide a vehicle for negotiating modifications in standard development requirements in order to both encourage innovative development and protect the health, safety and welfare of the community.

2.24.3 *Planned Development District Authorized*

A PDD may be authorized by an amendment to the official Zoning District Map after public hearings by the Commission and Council, provided it complies with the following requirements:

(a) *Location and uses*

A PDD shall be considered a special zoning district; and it may be authorized for any use or combination of uses permitted in this Zoning Ordinance. It shall be identified by a unique number and designated as such on the zoning map. (ie: PD-1, PD-2, etc.)

(b) *Planned Development District master plan required*

(1) The basis for review and approval of a PDD application shall be the PDD master plan, which shall be adopted as a part of the ordinance of rezoning in conformance with the requirements described in these regulations.

(2) The PDD master plan shall consist of two (2) following elements:

a. the design statement, and

b. the master development plan map.

(3) The PDD master plan establishes residential densities, as well as amount, type, and general location of all land uses.

(4) The PDD master plan shall serve as the basis for review and approval of all subdivision plats and building permits within the PDD.

(c) *Minimum area for a change in zoning district*

The minimum area for a change in zoning district shall be five (5) acres unless the Council determines that special conditions exist that warrant a planned development on a smaller tract.

(d) *Effect of Planned Development District approval*

(1) Approval of a zoning change to a PDD adopts the master plan prepared by the applicant and reviewed as a part of the application.

a. The master plan establishes new and specific requirements for the amount and type of land use, residential densities, development regulations and location of specific elements of the development, such as open space and screening.

(2) The PDD classification replaces any previous zoning district classification of a parcel.

(3) All PDDs shall establish a base-zoning district to identify all applicable uses and development regulations not specified within the PDD master plan in accordance with Section 7.3 PDD Application and Review.

a. The base zoning district's use and development regulations standards shall be interpreted to be the most recently adopted version of the Zoning Ordinance.

b. Uses and development regulations may either be adopted into or deleted from a base zoning district and said uses and development regulations shall be applicable to PDD.

2.25 Reserved

Section 3.0 Area Regulations, Chart and Standards

3.1 Purpose

The purpose of this section is to establish common area regulations and standards for each zoning district. This section provides one location within these Regulations where the common area regulations and standards can be found. The common area regulations and standards are divided into two sections, the residential (Section 3.2 Area Regulations and Standards for Residential Districts) and mixed use and non-residential section (Section 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts).

3.1.1 *Determinations*

In the event of any question as to the measurements of any area regulation or standard, the Community Development Director or their designee shall have the authority to determine the appropriate measurements, subject to the right of appeal to the Board.

3.1.2 *Establishment of Area Regulations and Standards*

The area regulations and standards for each zoning districts are established within Section 3.2 Area Regulations and Standards for Residential Districts and Section 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

3.1.3 *Additional Area Regulations and Standards*

Additional area regulations and standards may apply to specific zoning districts and may be found within the other sections of these Regulations.

3.2 Area Regulations and Standards for Residential Districts

Table 3.2

Residential Development Standards Chart

Development Standards	IZ	R-35	R-22	R-10	R-1	R-6	R-2		R-3				RHD					R-MH
	Single-Family detached units only	*Single-Family detached units only*	*Single-Family detached units only*	*Single-Family detached units only*	*Single-Family detached units only*	*Single-Family detached units only*	*Single-Family detached units only*	*Two-family attached units only*	*Single-Family detached units only*	*2 – 4 Family Attached*	*Townhouse units only*	*Multifamily units only*	*Single-Family detached units only*	*2 – 4 Family Attached*	*Townhouse units only*	*Multifamily units only*		
Minimum: Lot Size and Intensity of Use (Measured in Square Feet)	87,120	35,000	22,000	10,000	8,000[12]	6,000	6,000	4,500 square feet per dwelling unit	5,000[8]	3,500 square feet per dwelling unit[8]	2,200 square feet per dwelling unit[8]	5 Acres [15]	5,000[8]	3,500 square feet per dwelling unit[8]	2,200 square feet per dwelling unit[8]	5 Acres [15]		5,000 square feet per dwelling unit
Maximum Density	.5 du/ac	0.9 du/ac	1.4 du/ac	3.1 du/ac	3.9 du/ac	5.1 du/ac	6 du/ac	7 du/ac	7 du/ac	10 du/ac	15 du/ac	24 du/ac	7 du/ac	10 du/ac	15 du/ac	50 du/ac[14]		
Minimum Lot Width																		
• At the front building line	100'	80'	70'	70'	70'	60'	50'	30' per dwelling unit	50'	30' per dwelling unit	22' per dwelling unit	60' up to 150' [2]	50'	30' per dwelling unit	22' per dwelling unit	60' up to 150' [2]		50'
• Abutting the street	85'	65'	55'	55'	35'	35'	35'	25' per dwelling unit	20'	20' per dwelling unit	18' per dwelling unit	50'	35'	20' per dwelling unit	18' per dwelling unit	50'		30'
Minimum Lot Depth	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'	100'		None
Minimum House Size [10]	2400'	2,400	2,100	1,800	1,800	1,400	1,200	None	1,200	None	None	None	1,200	None	None	None		None
Maximum House Size	Not Applicable	Not Applicable	Not Applicable	5,800	5,800	4,800	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable		Not Applicable
Maximum Building Height (Exceptions listed in Section 5.4)	45'	40	40	Two stories not to exceed 40 feet'	Two stories not to exceed 40 feet	Two stories not to exceed 40 feet	Two stories not to exceed 40 feet	Two stories not to exceed 40 feet	Three stories not to exceed 40 feet	Three stories not to exceed 40 feet	Three stories not to exceed 40 feet	45'	45'	45'	45'	45' Plus [3]		35'
Minimum Front Setback [9]	30'	30'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'		20'
Minimum Side Setback [4]																		
• Adjacent to Lot;	30'	15'	10'	10'	5[13],	5'	5'	5'	5'	5'	5' or 0' [7]	10'	5'	5'	7'or 0' [7]	15 '		7'
• Adjacent to Street;	25'	25'	25'	25'	20'	20'	20'	20'	20'	20'	20'	25'	20	'20	20'	25'		15'
• May have one (1) zero side setback for detached dwellings per section 5.5	No	No	No	No	No	Yes	Yes	Not Applicable	Yes	Not Applicable	Not Applicable	Not Applicable	Yes	Not Applicable	Not Applicable	Not Applicable		Yes
Minimum Rear Setback [17]	20' or 20% of Lot Depth, whichever is larger	20' or 20% of Lot Depth, whichever is larger	20' or 20% of Lot Depth, whichever is larger	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	15'	10'	20' or 15% of Lot Depth, whichever is smaller	20' or 15% of Lot Depth, whichever is smaller	15'	10'		10'
Front, Side & Rear setbacks for Low Impact Institutional Uses (Section 4.3.6)	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street	35' Adjacent to a Lot and 25' Adjacent to a Street		35' Adjacent to a Lot and 25' Adjacent to a Street
Maximum Lot Coverage [5] (i.e., Main and Accessory Buildings)	35% of Lot Area	40% of Lot Area	40% of Lot Area	40% of Lot Area	40% of Lot Area	40% of Lot Area	50% of Lot Area	50% of Lot Area	50% of Lot Area	50% of Lot Area	60% of Lot Area	60% of Lot Area	50% of Lot Area	50% of Lot Area	60% of Lot Area	80% of Lot Area		40% of Lot Area
Maximum Impervious Surface Coverage [5]	50% of Lot Area	50% of Lot Area	50% of Lot Area	65% of Lot Area	65% of Lot Area	65% of Lot Area	80% of Lot Area	90% of Lot Area	80% of Lot Area	90% of Lot Area	90% of Lot Area	90% of Lot Area	90% of Lot Area	90% of Lot Area	90% of Lot Area	90% of Lot Area		90% of Lot Area
Minimum Masonry Content of Exterior Walls [11 16]	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	60%	60%	60%	60%	60%	60%		Not Applicable

[1] Reserved

[2] Minimum lot width is sixty (60) feet at the front building line plus an additional ten (10) feet per dwelling unit over three (3) units up to one hundred fifty (150) feet.

[3] Additional height shall be permitted on a ratio of one additional foot of building setback for every foot of building height above forty-five (45) feet from interior lot lines.

[4] Eaves and overhangs on single-family residential structures may encroach into the side yard setback in accordance with Section 5.6.2 Projections into Required Setbacks.

[5] As defined and measured in Section 8.3.184 Lot Coverage And Section 8.3.165 Impervious Coverage

[6] Minimum size of Manufactured Home Park shall be 10 acres.

[7] Side setbacks on townhomes and single attached dwelling units may be 0 feet when separated by a fire retardant wall meeting building code requirements.

[8] Single-family attached or detached residential units, duplexes, townhomes shall not be comingled and shall be platted in clearly defined areas.

[9] The front of the lot is the property line having the smallest dimension on a street. All single-family residences shall face the street on which the lot fronts.

[10] Exclusive of garages, porches, storage rooms and/or servant quarters.

[11] Excluding gables, windows and door openings. Accessory, detached structures are allowed to use cementious board, stucco and/or architectural concrete masonry units (CMU) in lieu of masonry.

[12] Any lot platted prior to September 1, 2010 must have a 9,000 square foot minimum lot size.

[13] On any lot platted prior to September 1, 2010, the main structure may be constructed within 5 feet of the adjacent side property line and a detached one-story garage my be built to within 3 feet of a side interior lot line.

[14] Multi-family complexes exceeding 30 units to the acre must provide more than 80% of the required parking in a parking structure or building.

[15] On lots utilized for three to five dwelling units, the minimum lot size may be reduced to 2,200 square feet per dwelling unit.

[16] Structures constructed prior to September 1, 2010 that do not meet the minimum masonry requirements may be repaired, altered or made larger, provided they meet the percentage of masonry currently provided. New structures must meet the masonry requirement.

[17] Rear setback applies to any residential occupied structure. Detached separate accessory buildings less than 14 feet in height may be built up to 10 feet from a rear lot line. Pool copings may be constructed within 5 feet of the rear lot line. All easements shall be respected.

3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts

Table 3.3
Mixed Use and Non-residential Development Standards Chart

Development Standards	MIX	RC	SPH	O-1	O-C	N-S	C-2	C-3	C-C	L-1	I-2	I-3	PDD	Reserved
Minimum lot area[1] (Measured in Square Feet)	87,120	25,000	43,560	20,000	25,000	20,000	43,560	40,000	25,000	40,000	40,000	40,000	Section 2.24 PDD, Planned Development District	2.25
Minimum lot frontage [1, 2] The measurement shall be along the front property line. Only one (1) side shall be considered the front.	200′	100′	100'	100'	100'	100' fronting Arterials / 50' fronting collectors or local streets	200'	100'	200′	200′	200′	200′	Section 2.24 PDD, Planned Development District	
Maximum Building Height, exceptions are listed in Section 5.4 Height	Section 2.12MIX, Mixed Use Overlay District	2 Stories [6] or building height shall be determined by Section 5.4 Height	45′ or building height shall be determined by Section 5.4 Height	30′ Not to Exceed two (2) stories above ground level	45' up to 75′ if it is set back from side and rear lot lines an additional one (1) foot for each one (1) foot that the building height exceeds forty-five (45) feet.	20′ Not to Exceed one (1) story above ground level	35'	45′ or building height shall be determined by Section 5.4 Height	45′ or building height shall be determined by Section 5.4 Height	75′	45′ or building height shall be determined by Section 5.4 Height	45′ or building height shall be determined by Section 5.4 Height	Section 2.24 PDD, Planned Development District	
Minimum Lot Depth	200′	100′	100′	100′	100′	100′	100′	100′	100′	200′	200′	200′		
Minimum Front Setback	Section 2.12MIX, Mixed Use Overlay District	5′	25'	40′	40′	25'	25'	25'	40′	40′	40′	40′	Section 2.24 PDD, Planned Development District	
Minimum Side Setback														
• Abutting a commercial or industrial district with a common wall.	Section 2.12MIX, Mixed Use Overlay District	0'	0'	0'	0'	0'	0'	0'	0'	0'	0'	0'	Section 2.24 PDD, Planned Development District	
• Abutting a commercial or industrial district without a common wall.		10′[7]	15′[7]	15′ [7]	15′ [7]	15′[7]	15 [7,]	15′ [7]	15′ [7]	15′ [7]	15′ [7]	15′ [7]		
• Abutting a residential district with no parking or driveways in the side setback.[7, 10]		5′[7]	40′ [7]	35′ [7]	40′ [7]	35′ [7]	35′ [7]	40′ [7]	40′ [7]	100 [7]	100 [7]	100 [7]		
• Abutting a residential district with a driveway or parking in the side setback, a driveway or parking lot must be at least from the residential district.		15'	15'	15'	15'	15'	15'	15'	15'	15'	15'	15'		
• Exterior lot line abutting an arterial or collector street.		50′	25'	25'	35′	25'	35′	35′	35′	25'	25'	25'		
• All other exterior corner lots.		15'	15'	15'	15'	15'	15'	15'	15'	15'	15'	15'		
Minimum Rear Setback														
• Abutting non-residential property.	Section 2.12MIX, Mixed Use Overlay District	10′	10′	10′	10′	10′	10′	10′	10′	10′	10'	10'	Section 2.24 PDD, Planned Development District	
• Abutting a residential district [7, 10]		50′	40′	40′	40′	40′	40′	40′	40′	10'	40'	40'		
• If the building is to be serviced from the rear, then there shall be provided an alleyway, service court, rear setback, or combination thereof of not less than the following distance.		30'	30'	50′	50′	50′	50′	50′	50′	30'	30'	30'		
Maximum Coverage														
• Maximum building coverage (i.e., main and accessory buildings)	Section 2.12MIX, Mixed Use Overlay District	80% of lot area	85% of lot area [11]	40% of lot area	40% of lot area	50%	80%	80%	80%	75%	75%	75%	Section 2.24 PDD, Planned Development District	
• Maximum impervious surface coverage[12]		80% of lot area	85% of lot area [11]	80% of lot area	80% of lot area	80% of lot area	80% of lot area	80% of lot area	80% of lot area	90% of lot area	90% of lot area	90% of lot area		
Landscape Surface Ration (LSR) [12]		20%	15% [11]	20%	20%	20%	20%	20%	20%	10%	10%	10%		
Maximum Floor Area Ratio														
Gross Floor Area														
Maximum				25,000	Not Applicable	25,000	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	
Reserved														
Minimum Masonry Content	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	

[1] Lot area may be reduced by 50% and/or lots with no frontage may be allowed as part of a master planned development or shopping center where the lot has no direct access to the adjacent street and uses cross access easements or shared access, provided it is restricted to one-story in height.

[2] Lot frontage requirement is for arterials and collectors. Local street frontages may be reduced by 50% frontage as measured at the right-of-way line. Only one frontage maybe considered the front.

[3] Lots fronting on Research Forest shall maintain a minimum 40 foot front setback from Research Forest.

[4] If a building is within 150" of a residential zoning district the building height shall be determined by Section 5.4 Height.

[5] Buildings may be an additional 2 feet in height for every foot of additional setback from rear and side lot line up to 75' in maximum height.

[6] See Section 4.10.8 Retail Commercial (RC) District Special Regulations.

[7] See Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance).

[8] Reserved

[9] Reserved

[10] Setbacks adjacent to residential districts shall be regulated by the height of structures as determined by Section 5.4 Height

[11] See Section 4.10.8 Retail Commercial (RC) District Special Regulations.

[12] The minimum required total green space on each site shall be the greater of the minimum required landscape surface ratio (LSR) or in accordance with Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance). All Landscaping shall be in accordance.

Section 4.0 Use Unit Classifications and Regulations

4.1 Purpose

The purpose of this section is to create use unit classifications. A use unit classification is a group of related individual uses having similar functions, products, or performances that provides a basis for their systematic assignment to specific zoning districts in accordance with criteria directly relevant to the health, safety, and public welfare of the citizens of Shenandoah.

4.1.1 *Determinations*

In the event of any question as to the appropriate use classification of any existing or proposed use or activity, the Community Development Director or their designee shall have the authority to determine the appropriate classification, subject to the right of appeal to the Board.

(a) *Determination Criteria*

In making such determinations, the Community Development Director or their designee shall consider the characteristics of the particular use in question, and shall consider any functional, product, service, or physical facility requirements in common with or similar to uses cited as examples of use classifications.

(b) *Determinations Record*

The Community Development Director or their designee shall maintain a list of all such determinations, and shall periodically recommend to the Commission additions, deletions, or revisions to the use classifications to reflect contemporary usage and terminology.

(c) *Interpretation*

A use, if specifically listed in a use unit classification, shall not by interpretation be included as a typical use within any other classification unless so listed.

4.1.2 *Application*

Use units shall be applied to the uses permitted and Special Use Permit categories of the Zoning Ordinance for the purpose of determining which land uses are eligible in each zoning district.

4.2 Residential Use Unit Classifications and Regulations

Residential use unit classifications include the occupancy of living accommodations on a non-transient basis and shall specifically exclude those providing twenty-four (24) hour hospital care and those providing forced residence, including detention and correction facilities. See Section 4.9.2 Use Chart, Use units included are as follows:

4.2.1 *Single-Family Detached Residential*

A building designed for occupancy by one (1) family. It is located unattached to any other dwelling unit on a lot or building site that is unoccupied by any other dwelling unit or main building. See Section 4.9.2 Use Chart

4.2.2 *Two Family Attached Residential (Duplexes)*

A building designed for occupancy for two (2) families living independently of each other. The two (2) units are placed adjacent to one another, with structural parts touching.

Two family attached units can be designed where the two (2) dwellings units are located on one (1) lot, or where the two (2) dwellings units are located on separate lots. Two family attached units are commonly referred to as duplexes.

4.2.3 *Townhouse (Single-Family Attached)*

A building designed for occupancy by three (3) or more families living independently of each other. The three (3) or more units are placed adjacent to one another, with structural parts touching. Each of the units, however, are located on a separate lot.

4.2.4 *Multifamily Residential*

A building designed for occupancy by three (3) or more families living independently of each other including a three family (triplex) or four family (fourplex) attached dwelling unit. All of the units, however, are located on one (1) lot under single ownership.

Typical uses would include apartments or condominiums where only the units have been sold and not the land.

4.2.5 *Manufactured Home Residential (HUD code)*

A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

4.2.6 *Industrialized Home Residential (Prefabricated or Modular Home)*

(Also called Modular Prefabricated Structure or Modular Home.) A structure that is manufactured at a location other than the home site, utilizing assembly line type production techniques or other construction methods unique to the manufacturing process. The structure or modules are transported from the manufacturing plant in one or more sections on a temporary chassis or other conveyance device and designed to be used as a permanent dwelling installed on a permanent foundation. The structure shall meet all masonry requirements. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. See Section 4.9.2 Use Chart.

4.2.7 *Mobile Home*

A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or forty (40) body feet or more in length, or when erected on site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

4.2.8 *Group Residential*

The residential occupancy of a living unit or units by more than five occupants not constituting a family or not otherwise related but occupying the structure on a non-transient basis.

Typical uses include occupancy of fraternity or sorority houses, dormitories, boarding houses, lodging houses.

4.2.9 *Home Occupation*

Any occupation or profession carried on in a dwelling by two (2) or fewer individuals (at least one (1) of which must be an inhabitant of the dwelling) that must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and that does not change the character of the dwelling and without any significantly adverse impact on the surrounding neighborhood. See Section 4.9.2 Use Chart.

(a) *Typical uses include*

The office or studio of an artist, musician, lawyer, architect, engineer, teacher or similar professional, workshops, greenhouses or kilns, which have no retail sales that violate the uses listed in this definition.

(b) *Location*

They are located in a residential district and is conducted by a person on the same lot where such person resides; and is not located in an area that is deed restricted only to residential use;

(c) *Home occupations do not include those where*

(1) Goods, stock in trade or other commodities are displayed;

(2) Any on-premises or off-premises sign advertises the home occupation;

(3) Any on-premises retail sales occur;

(4) More than one person who is not a resident on the premises is employed in connection with the purported home occupation;

(5) The home occupation creates objectionable noise, fumes, odor, dust, electrical interference or excessive traffic;

(6) More than 25 percent of the total gross floor area of all buildings, or more than 500 square feet of gross floor area, whichever is less, is used for the home occupation; or

(7) Such use would violate applicable deed restrictions.

(8) Automotive repair for a fee is performed.

(9) Those uses that do not comply with Section 5.7.2 Home Occupations.

(d) *Non-home occupations*

The following shall not be deemed a home occupation.

(1) Barber shop;

(2) Tea room or restaurant;

(3) Rest or nursing home;

(4) Clinic;

(5) Doctor or dentist office;

(6) Childcare center for seven (7) or more children under the age of eighteen (18);

(7) Inn or tourist home; and

(8) Cabinet, metal or auto repair shop.

4.2.10 *Garage Apartment Attached/Unattached or Accessory Dwellin*

A building originally designed for parking and storage of automobiles in conjunction with the main dwelling, but which may be converted for occupancy as a living unit or a second, smaller accessory dwelling secondary to the main dwelling under the applicable zoning districts. See Section 4.9.2 Use Chart and Section 8.3.150 Garage Apartments.

(a) *Placement*

The garage apartment may be placed adjacent to the main dwelling, with structural parts touching, or may be independent of one another.

(b) *Location, Size, and Building Coverage*

Garage apartments shall be located on the same lot as the main dwelling and shall not exceed fifty (50) percent of the size of the main dwelling, and at no time shall the main dwelling and garage apartment exceed the building coverage allowable under the applicable zoning district.

(c) *Limitation*

There shall be no more than one (1) main dwelling unit and garage apartment/accessory dwelling on one (1) lot.

(d) *Two family attached minimum lot size applies*

Main dwellings with garage apartment attached/unattached accessory dwelling hall meet the minimum lot size for two family attached residences under the applicable zoning districts.

4.3 Public and Quasi-Public Use Unit Classifications and Regulations

Public and quasi-public classifications include the performance of utility, educational, religious, recreational, cultural, medical, governmental, and other uses that are strongly vested with public or social importance. See Section 4.9.2 Use Chart.

4.3.1 *Public Service or Utility: Light*

Public services needing locations near the area to be served but not requiring incidental storage of equipment or vehicles. These uses have minimal land needs and no negative impact upon surrounding land uses.

Typical uses include directional, warning, safety, historical and informational signs; elevated water tanks; water or sewage pumping stations; stormwater control facilities; bus and transit stops; utility facilities; pressure control station for gas or liquid pipelines, excluding storage or service garages.

4.3.2 *Public Service or Utility: Moderate*

Public services involving direct citizen contact as well as incidental storage and maintenance of necessary equipment or vehicles including public protection or essential utility services. Said services may have technical and locational requirements necessitating proximity to the area served but should have a minor impact on surrounding uses.

Typical uses include ambulance service; fire protection facilities; public and quasi-public maintenance facilities; civil defense shelters and facilities; electric transmission station or substation.

4.3.3 *Public Service or Utility: Heavy*

Public services and utilities which may have a substantial impact due to attendant hazards, nuisance characteristics, traffic generation characteristics, or maintenance and operational characteristics.

Typical uses include sewage disposal facilities; water treatment plants, water storage reservoirs; refuse transmission stations; solid waste disposal facilities, excluding sanitary landfills. See Section 4.9.2 Use Chart.

4.3.4 *Sanitary Landfill*

The use of land for the permanent disposal of nonhazardous solid waste, in accordance with applicable state and municipal standards governing solid waste disposal.

4.3.5 *Hazardous Waste Disposal*

The disposal of any waste or refuse that by its nature or volume pose a direct threat to public health and safety or to property. Explosives, acids, caustics, poisons, drugs, radioactive materials and other substances recognized by state or federal regulations or by the Community Development Director or their designee that are considered to pose a hazard shall be classified in this use unit.

4.3.6 *Low Impact Institutional: Neighborhood Related*

Quasi-public or private activities that may have minor impact on surrounding uses, and are occupied on an intermittent basis. Such uses are necessary to serve common functions within a residential area, and are not designed to provide lodging. See Section 4.9.2 Use Chart.

Typical uses include elementary schools and churches (worship facilities) as defined in Section 8.3.49 Church/Synagogue/Temple including a parsonage or rectory, provided they are treated similar to comparable uses.

4.3.7 *Moderate Impact Institutional*

Quasi-public and private institutional activities that may have significant impact on surrounding uses.

Typical uses include government buildings, fraternal organizations, middle schools, high schools, vocational schools and churches as defined in Section 8.3.49 Church/Synagogue/Temple with accessory uses such as schools, offsite parking, shelters or traffic generating uses.

4.3.8 *High Impact Institutional – Including Hospitals and Universities*

Public, quasi-public or private facilities which due to their area requirements, traffic generation, light or noise generation, or the nature of intended activities, have the potential for major impact on surrounding land uses.

Typical uses include hospitals, colleges, universities, and military installations.

4.3.9 *Cultural Exhibits*

Museum-like preservation and exhibition of objects of artistic, cultural, scientific interest, and gallery exhibition of works of art for study and pleasure.

Typical uses include aquariums, art galleries, museums, planetariums, and observatories.

4.3.10 *Library Services and Community Centers*

Uses that directly serve a residential neighborhood or a cluster of neighborhoods and provide a gathering and collecting site for residents to meet, read, study, and partake in book collections, manuscripts and lessons.

4.3.11 *Community Recreation: Restricted*

Recreational, social and multipurpose uses that operate during daylight hours and generally are available for public use.

Typical uses include golf courses with accessory clubhouses and buildings; unlighted swim centers, tennis courts, playgrounds, playfields and public parks. See Section 4.9.2 Use Chart.

4.3.12 *Community Recreation: General*

Recreational, social or multipurpose open or enclosed uses and accessory buildings, which have no fixed seats, and occupancy limited to fifty (50) persons.

Typical uses include golf courses; clubhouses; swim centers; tennis centers; playgrounds; playfields; marinas; boat docks; country clubs; public parks. Any use which has outdoor lights for illuminating nighttime activities shall be included in this use unit.

4.3.13 *Community Recreation: Property Owners' Association*

Private recreational, social, and multipurpose uses within a subdivision that is operated and maintained by a property owners' association for the benefit and enjoyment of its members. These uses are planned as an integral part of the development. The areas are designated on the subdivision plat as "common areas," and rules for their operation and maintenance are included in the declaration of covenants and restrictions of the subdivision and the by-laws of the property owner's association.

Typical uses include clubhouses, tennis courts, playgrounds, and swimming pools, either lighted or unlighted. See Section 4.9.2 Use Chart.

4.3.14 *Group Home*

Public, quasi-public or private care facilities that because of the nature and scale of their programs are compatible in a residential setting, and have fewer than four (4) handicapped or impaired individuals as defined in Section 8.3.158 Group Home and living in a single-family residence as a single housekeeping unit in accordance with Section 4.10.2 Group Care Facility including Group Homes.

Individual residents may occupy the facility on a permanent or temporary basis. Residents may be handicapped, aged, disabled, or undergoing rehabilitation or medical treatment, excluding medical or nonmedical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Texas Statutes**.** Residents may be assigned to facilities by a court, but not as a result of being adjudged criminal, delinquent, or mentally ill.

4.3.15 *Group Care Facility*

Public, quasi-public or private care facilities that because of the nature and scale of their programs are compatible in a residential setting.

Group Care Facilities also includes impaired or handicapped persons in a shared residential living arrangement defined in Section 8.3.158 Group Home as a Group Home which provides a family-type environment for five (5) or more handicapped persons, supervised by one or more primary care givers, as further restricted and subject to compliance with Section 4.10.2 Group Care Facility including Group Homes. Individual residents may occupy the facility on a permanent or temporary basis. Residents may be handicapped, aged, disabled, or undergoing rehabilitation or medical treatment, excluding medical or nonmedical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Texas Statutes. Residents may be assigned to facilities by a court, but not as a result of being adjudged criminal, delinquent, or mentally ill.

Typical uses include nursing homes, assisted living centers, group homes for mentally or physically handicapped, convalescent homes, homes for the elderly, and homes for dependent and neglected children, orphanages.

4.3.16 *Community-Based Care Facility*

Public, quasi-public or private care facilities that because of the nature and scale of their operation have the potential for impacting surrounding land uses.

Typical uses include drug or alcohol treatment centers and halfway houses including medical or nonmedical detoxification as these terms are defined pursuant to the Texas Statutes, forced detention or correction facilities, work release facilities, transitional residential facilities for residents who have been released from mental institutions, community shelters and feeding sites, and battered spouse shelters. See Section 4.9.2 Use Chart.

4.3.17 *Wind Energy Conversion Systems (WECS)*

Wind energy conversion systems (WECS) shall be defined as any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy. WECS are an accessory use and regulations are contained within Section 5.7 Accessory Uses and Structures or Section 5.7.6 Wind Energy Conversion Systems.

4.3.18 *Solar Panels*

Attached solar panels shall be allowed in all districts.

Solar panels unattached or panel, exceeding the height of the main structure shall require an SUP.

4.4 Commercial Use Unit Classifications and Regulations

Commercial use unit classifications include the distribution, sale or rental of goods; and the provision of services other than those classified as civic uses. See Section 4.9.2 Use Chart.

4.4.1 *Administrative, Financial, and Professional Office*

Offices of firms or organizations providing professional and executive management, administrative or financial services.

Typical uses include advertising agencies, law offices, real estate offices, architectural and engineering offices, financial institutions, including banks, credit unions and savings and loans, and corporate offices. See Section 4.9.2 Use Chart

4.4.2 *Adult Entertainment Enterprise*

See Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances.

Adult Entertainment Enterprises furthermore include, but are not limited to, the following:

(a) *Adult Bookstore/Film Store*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances

(b) *Movie Arcade*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances.

(c) *Viewing Booths/Arcades*

As defined and regulated by Section Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances.

(d) *Adult Motion Picture Theatre*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances

(e) *Adult Cabaret*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances

(f) *Adult Encounter Parlor*

As defined and regulated by Section Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances

(g) *Adult Lounge*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances.

(h) *Adult Drive-in Theatre*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances.

(i) *Adult Retail Store*

As defined and regulated by Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses, of the Shenandoah Code of Ordinances.

4.4.3 *Agricultural Supplies and Services*

Establishments or places of business primarily engaged in the retail or wholesale sales from the premises of feed, grain, fertilizer, pesticides and similar goods as well as the provision of agriculturally related services with incidental storage on lots other than where the service is rendered.

Typical uses include feed and grain stores, crop-dusting supply stores, and tree service firms. See Section 4.9.2 Use Chart

4.4.4 *Alcoholic Beverage Retail Sales*

Establishments or places of business primarily engaged in the retail sales of alcoholic beverages. All requirements of Texas Statutes and Chapter 6 of the Shenandoah Code of Ordinances shall be met.

Typical uses include liquor stores and beer stores.

4.4.5 *Animal Sales and Services: Auctioning*

Auctioning of livestock on a wholesale or retail basis with incidental on-site storage of animals on a temporary basis not to exceed forty-eight (48) hour periods.

Typical uses include animal auctions or livestock auctions or livestock auction yards.

4.4.6 *Animals: Grooming and Sales*

Grooming of dogs, cats, small animals.

Typical uses include dog bathing and clipping salons, pet grooming shops or pet shops. No medical, training, or boarding services are permitted.

4.4.7 *Animal Sales and Services: Horse Stables*

Boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than the occupants of the premises.

Typical uses include boarding stables or public stables.

4.4.8 *Animal Sales and Services: Kennels and Veterinary, Restricted*

Kennel and veterinary services for small domestic animals, such as dogs, cats, or other household pets, with all operations and storage conducted within an enclosed building.

Typical uses include animal or veterinary hospitals, boarding and breeding kennels, pet motels, and animal training centers.

4.4.9 *Animal Sales and Services: Kennels and Veterinary, General*

Kennel and veterinary services for domestic animals, with incidental outdoor storage and runs permitted.

Typical uses include animal and veterinary hospitals, boarding or pet motel, breeding kennels, and animal training. See Section 4.9.2 Use Chart.

4.4.10 *Automotive Equipment and Repairs: Light*

Establishments or places of business engaged in the washing, polishing and light repairing of automobiles; and the sale, installation and servicing of automobile equipment and parts, automobile sales, with all uses conducted indoors.

Typical uses include automated car washes; utilities for manual washing, and light repairing of automobiles such as muffler shops, quick lube, tune-up shops, auto glass and tinting shops, tire stores, or brake repair shops, See Section 4.4.54 Retail Sales and Services: General for auto parts stores

4.4.11 *Automotive Equipment and Repairs: Heavy*

Repair of motor vehicles such as aircraft, boats, recreational vehicles and trucks, as well as the sale, installation and servicing of automotive equipment and parts together with body repairs, painting and steam cleaning.

Typical uses include engine repairs replacement or rebuilding operations, transmission shops, paint and body shops, interior and upholstery shops, motor freight maintenance facilities, and wrecking services, which include temporary storage of damaged vehicles, sale of refurbished/rebuilt used parts not salvaged or refurbished/rebuilt on site.

4.4.12 *Automotive Sales and Rentals: Light*

Sale or rental from the premises of automobiles and light panel trucks, boats, trailers, or delivery vehicles, together or independently together, with incidental maintenance, including paint and body repair facilities which are a part of the agency conducted within an enclosed building.

Typical uses are a new and used automobile dealership with showroom, sales lot, and service facility. See Section 4.9.2 Use Chart.

4.4.13 *Automotive and Equipment Sales and Rentals: Heavy*

Sales and rental from the premises of heavy farm or construction equipment, trucks, buses, aircraft, or similar heavy mobile equipment, together with incidental maintenance. Auto auctions are included but only in the LI District with an SUP.

4.4.14 *Automotive and Equipment: Storage*

Storage of vehicles used regularly in business operations and not available for sale or long-term storage, and facilities or structures for the storage of no operating motor vehicles.

Typical uses include new car dealers' off-site auto storage lots, taxi fleets, truck storage facilities or yards, auto storage garages, and tow away or impound yards, but excluding junk or salvage yards.

4.4.15 *Building Maintenance Services*

Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments primarily to other firms, rather than to individuals, but excluding automotive, construction, petroleum and farm equipment.

Typical uses include office equipment and supply firms; janitorial services; disinfecting and exterminating services; vending machine sales and services; and window cleaning services.

4.4.16 *Business Support Services*

Establishments primarily engaged in the provision of services of a clerical, employment, protective or minor processing nature and where the storage of goods or equipment other than as samples or as necessary for daily operation is prohibited.

Typical uses include secretarial services; telephone answering services; security services; blueprint services; copying, small printing and reproduction services; detective and protective services; and employment services. See Section 4.9.2 Use Chart.

4.4.17 *Childcare Center and Adult Day Care Center*

(a) *Childcare center*

Any day nursery, nursery school, foster home, preschool, day care center, family day care home, or any place, home or institution which receives seven (7) or more children under the age of eighteen (18) years and not of common parentage for either full-time or part-time care for children apart from their natural parents, legal guardians, or custodians, whether for compensation or not.

(b) *Adult day care center*

A facility, except for nursing homes, retirement centers and senior citizens centers, which provides basic day care services to four (4) or more unrelated impaired adults for more than four (4) hours in a twenty-four (24) hour period. A center shall be a distinct entity either freestanding or a separate program of a larger organization. A licensed center shall have a separately verifiable staff, space, budget and participant.

Specific regulations on Childcare centers and Adult day care centers are contained in Section 4.10 Regulations of Specific Uses.

4.4.18 *Childcare – Registered Family Home*

Any day nursery, nursery school, foster home, preschool, day care center, family day care home, or any place, home or institution which receives six (6) or less children under the age of eighteen (18) years and not of common parentage for either full-time or part-time care for children apart from their natural parents, legal guardians, or custodians, whether for compensation or not.

4.4.19 *Commercial Sales and Services: General*

Establishments engaged in the sale or rental, both retail and wholesale of heavier or used goods, merchandise and services. Such uses may have such characteristics as outside sales and storage, deliver trucks and fleet vehicle parking.

Typical uses includes: secondhand merchandise; used appliance and clothing stores; used furniture stores; swimming pool supplies and equipment; pawnshops; monument sales; floor covering stores; extermination services.

4.4.20 *Commercial Sales and Services: Least Restrictive*

All other commercial establishments engaged in the sale or rental of goods and services, with wholesale and secondhand used goods, merchandise, and services as the predominant use of the property. See Section 4.9.2 Use Chart.

4.4.21 *Communications Services: Limited*

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephone mechanisms but excluding those classified as major impact services and utilities. Those with towers or antennas must also comply with Section 4.4.22 Communication Services: Towers/Antennas.

Typical uses include television/radio studios and telecommunication service centers. See Section 4.9.2 Use Chart.

4.4.22 *Communication Services: Towers/Antennas*

Radio and television broadcast towers, satellite communication facilities, cellular phone towers, microwave antennas, or business dispatching or receiving antennas, and all other antennas similarly suited whether mounted on top of a building or rooftop or mounted on top of a monopole/tower. Where a broadcast tower is permitted, a broadcast studio is permitted to locate on the same site.

(a) *Towers/antenna requirements*

Such towers/antennas shall meet the setback requirements of the district and shall not extend fifteen (15) feet above the maximum height allowable of the district in which it is located unless otherwise approved by the Council as a Special Use Permit. Special use permits are required for exceeding the height limitation, inability to meet the setback requirements, and other special development criteria.

(1) Antennas which are mounted to monopole/towers and which, with a Special Use Permit, exceed the height limitation for the district in which it is located shall set back a distance from the property line(s) equal to three-fourths (3/4) the height of the antenna and tower combined.

(2) Antennas which are built upon a building or rooftop and are not a part of or connected to a monopole/tower and which exceed with Council's approval the height limitation for the district in which it is located shall be required to meet the setback requirements of the district for the height attained.

4.4.23 *Construction Sales and Services*

Establishments or places of business primarily engaged in construction activities and incidental outdoor storage and display on lots other than construction sites. This includes the retail or wholesale, from the premises, of materials used in the construction of buildings or other structures, but excluding equipment and uses found in the automotive and heavy equipment use classifications.

Typical uses include lumber yards and building materials stores; tools and equipment rental or sales; electrical supplies; plumbing supplies and air conditioning or heating shops; hardware stores; paint stores; and glass stores. Temporary on-site construction offices are permitted in all district by the Chief building official.

4.4.24 *Contractor Office/Shop/Sales: Limited (No outside storage or display)*

A business in which services utilized in the improvement and/or maintenance of structures or properties and requiring specialized materials, supplies, and/or expertise are normally provided at the customer's location rather than at the business location. No outside storage or display of materials, supplies or equipment of any kind shall be allowed except for parking of business vehicles limited to automobiles, conventional pick-ups and vans (not including trailers), limited to a maximum of one-ton capacity at the business location.

Examples of contractor shops with no outside storage or display might include, but are not limited to heating, ventilation and air conditioning contractors, electrical contractors, plumbing contractors, and similar businesses not otherwise provided for in the Use Charts.

4.4.25 *Contractor Office/Shop/Sales: General*

A business in which services utilized in the improvement and/or maintenance of structures or properties and requiring specialized materials, supplies, and/or expertise are normally provided at the customer's location rather than at the business location, and in which the necessary materials, supplies or equipment are stored, displayed, or parked outside and on site at the business location.

Typical uses include heating, ventilation and air conditioning contractors, electrical contractors, plumbing contractors, and similar businesses not otherwise provided for in the Use Charts.

(a) *Parking*

Parking of larger vehicles will be allowed only one side or rear yards not adjacent to a public street and screened by a seven-foot not-transparent screening fence on all-weather paved asphalt or concrete surface.

(b) *Materials*

All materials stored outside must be stored in an area screened by a non-transparent fence in accordance with these Regulations.

4.4.26 *Convenience Sales and Personal Services*

Establishments or places primarily engaged in the provision of frequently needed, day-to-day retail commercial goods and services. Such uses are designed and intended to serve a limited local market, and to be generally within walking or short driving distance of a residential area. Furthermore, only uses that do not create increased traffic, noise, or such other impacts considered incompatible with a residential use will be permitted. Sales of non-intoxicating beverages as defined in Title 11, Texas Statutes, Section 163.1 and following shall be allowed. All requirements of the above sections and Chapter 5 of the Shenandoah Code shall be met. See Section 4.9.2 Use Chart.

Typical uses include small grocery stores or convenience stores including incidental gas sales; drug stores; candy stores; ice cream parlors (without accessory uses); dry cleaning and laundry pick up and drop off establishments; barbershops; self-service laundries; beauty parlors; bakeries; floral and gift shops; and key and lock shops.

4.4.27 *Drinking Establishments*

Establishments or places of business where customers are seated and served, and which are primarily engaged in the sale, mixing, or dispensing of alcoholic beverages for consumption on the premises. All requirements of Texas Statutes and Chapter 6 of the Shenandoah Code of Ordinances must be met.

Typical uses include taverns, dance halls and mixed beverage establishments in which food items are served but as accessory to the drinking establishment.

Live entertainment is permitted except that no entertainment prohibited by the Shenandoah Code shall be permitted.

4.4.28 *Eating Establishments: Drive-In*

Establishments or places of business with little or no inside seating where prepared food and beverages are consumed within a motor vehicle on the premises or are carried outside by the purchaser to tables. These uses are normally adjacent to high volume vehicular movement areas and are characterized by either remote ordering of food from within the vehicle and delivery by attendants, or by carryout packages for consumption on or off the premises.

4.4.29 *Eating Establishments: Fast Foods including drive through windows*

Establishments or places of business primarily engaged in the sale of prepared food and beverages for both on and off-premises consumption. These uses are normally adjacent to high volume pedestrian and/or vehicular movement areas, and are characterized by pre-packaged and pre-cooked foods and by a central ordering and serving point within the establishment. Typical uses include some types of chain or franchise restaurants including kiosks or drive through window. See Section 4.9.2 Use Chart.

4.4.30 *Eating Establishments: Fast Foods, Alcoholic Beverages Permitted*

Establishments or places of business primarily engaged in the sale of prepared food and beverages for both on and off premises consumption. They are normally adjacent to high volume pedestrian and/or vehicular movement areas, and are characterized by pre-packaged and pre-cooked foods and by a central ordering and serving point within the establishment.

Alcoholic beverages shall be allowed. All requirements of Texas Statutes and Chapter 6 of the Shenandoah Code of Ordinances must be met. See Section 4.10.6 Alcoholic Beverage Special Use*

Typical uses include kiosks or drive through windows and some types of chain or franchise restaurants. See Section 4.9.2 Use Chart.

4.4.31 *Eating Establishments: Sit-Down, Alcoholic Beverages not Permitted*

Establishments or places of business where customers are seated and served, and that are primarily engaged in the sale of prepared foods and beverages for on-premise consumption. They are located at high capacity/high volume sites that are easily accessed by vehicles and pedestrians. See Section 4.9.2 Use Chart.

Typical uses include restaurants, short-order eating-places, cafeterias, and coffee shops.

4.4.32 *Eating Establishments: Sit-Down, Alcoholic Beverages Permitted*

Establishments or places of business where customers are seated and served, and are engaged in the sale, mixing or dispensing of beverages containing more than 0.5 percent alcohol by weight, or wine or any kind of on-premises consumption as accessory to a restaurant operation. All requirements of and Chapter 6 of the Shenandoah Code of Ordinances must be met. See Section 4.10.6 Alcoholic Beverage Special Use*.

Typical uses include restaurants and nightclubs. Live entertainment shall be permitted except that no entertainment prohibited by the Shenandoah Code of Ordinances shall be permitted.

4.4.33 *Food and Beverage Retail Sales, including grocery stores*

Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption. Sales of non-intoxicating beverages as defined and allowed by Texas Statutes shall be allowed. All requirements of the above sections and Chapter 6 of the Shenandoah Code shall be met.

Typical uses include grocery stores; delicatessens; ice cream and dairy products with accessory uses; meat markets; fish and seafood markets; and fruits and vegetables.

4.4.34 *Funeral and Interment Services: Animals*

Interring services involving the permanent disposition of animal bodies.

Typical uses include animal cemeteries.

4.4.35 *Funeral and Interment Services: Burial*

Interring services involving the permanent disposition of human bodies.

Typical use is a cemetery, which may include on-site structures for such accessory uses as columbarium, crematoriums, funeral homes, and mausoleums.

4.4.36 *Funeral and Interment Services: Cremating*

Crematory services within a funeral home or within a special structure on the grounds of a cemetery involving the purification and reduction of the human dead by fire.

Typical uses include crematoriums.

4.4.37 *Funeral and Interment Services: Undertaking*

Undertaking services such as preparing the dead for burial, arranging, and managing funerals.

Typical uses include funeral homes or mortuaries, but do not include cemeteries.

4.4.38 *Gasoline Sales: Restricted*

Establishments or places of business primarily engaged in the on-site retail sale of petroleum products with incidental sale of tires, batteries, and replacement items, lubricating services and minor repair services for automobiles. Other incidental uses may include the sale of food and beverages. See Section 4.9.2 Use Chart.

Typical uses include automobile service stations but does not include convenience stores selling gas. See Section 4.4.26 Convenience Sales and Personal Services. Road service tow trucks are permitted, but not the temporary or permanent parking or storage of damaged, wrecked, or inoperable vehicles.

4.4.39 *Gasoline Sales: General*

Establishments or places of business primarily engaged in the on-site retail sale of petroleum products with incidental sale of tires, batteries, and replacement items, lubricating services and minor repair services for both automobiles and trucks. Other incidental uses may include the sale of prepared foods and beverages for on-premise consumption, along with sleeping and showering facilities.

Typical uses include truck stops and private fuel dispensing.

4.4.40 *Health Clubs*

Establishments or places of business engaged in providing exercising and recreation facilities.

Typical uses include health spas, gymnasiums, and dance exercise facilities. Spectators' provisions are incidental to the participant activity.

Health clubs that are part of a multifamily complex are considered accessory to the main use and do not fall under this category.

4.4.41 *Laundry Services*

Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services for multiple collection/distribution outlets, other than those classified as "convenience sales and personal services" and employ five (5) or fewer full time employees. Laundry and dry cleaning services with more than five (5) full time employees are listed in Section 4.5.2 Light Industrial: Restricted.

Typical uses include laundry agencies, diaper services, or linen supply services. Dry cleaning and laundry pickup only are listed under Section 4.4.26 Convenience Sales and Personal Services Convenience Sales and personal Services.

4.4.42 *Manufactured Housing and Travel Trailers: Sales and Rentals*

Sale or rental from the premises of manufactured housing and travel trailers together with incidental maintenance, which is a part of the agency.

Typical uses include manufactured housing sales, mobile home sales, travel trailer sales, camper sales, recreational vehicle sales, and trailer sales and rentals.

4.4.43 *Medical Services: Restricted*

Establishments primarily engaged in the provision of personal health services including prevention, diagnosis and treatment or rehabilitation services provided by physicians, dentists, nurses, and other health personnel as well as the provision of medical testing and analysis services. See Section 4.9.2 Use Chart.

Typical uses include medical offices; dental offices, dental laboratories; clinics or health maintenance organizations; but not including any sales facilities, hospitals, convalescent centers or nursing homes.

4.4.44 *Medical Services: General*

Establishments primarily engaged in the provision of personal health services and including related retail sales activities.

Typical uses include medical offices, dental offices, dental laboratories; clinics, or health maintenance facilities with related sale facilities such as opticians or pharmacies in the same structure; but not

including hospitals, convalescent centers, or nursing homes. Hospitals are located in Section 4.3.8 High Impact Institutional – Including Hospitals and Universities.

4.4.45 *Participant Recreation and Entertainment: Indoor*

Those participant recreation and entertainment uses conducted within an enclosed building.

Typical uses include bowling alleys, bingo halls, and billiard parlors with three (3) or more tables, skating rinks, and arcades with four (4) or more amusement devices, and family amusement centers. Any spectators would be incidental to the participant activity.

4.4.46 *Participant Recreation and Entertainment: Indoor, Alcoholic Beverages Permitted*

Those participant recreation and entertainment uses conducted within an enclosed building.

Typical uses include bowling alleys, billiard parlors, skating rinks, arcades and family amusement centers. Any spectators would be incidental to the participant activity.

The sale for on-premises consumption of alcoholic beverages as allowed in Texas Statutes shall be allowed.

All requirements of Texas Statutes and Chapter 6 of the Shenandoah Code must be met.

4.4.47 *Participant Recreation and Entertainment: Outdoor*

Those participant recreation and entertainment uses conducted in open facilities. See Section 4.9.2 Use Chart.

Typical uses include driving ranges or miniature golf courses; go-cart tracks; drive-in theaters; and amusement parks.

4.4.48 *Personal Services: Restricted*

Establishments primarily engaged in the provision of informational, instructional, and personal improvements and similar services, which are able to be located in an office-type building.

Typical uses include photography and art studios, travel agencies, automobile driving schools, reducing salons, dancing and music academies, and classrooms for business schools. Excluded are services that would be classified under spectator sports and entertainment, participant recreation and entertainment, or transient accommodation.

4.4.49 *Personal Services: General*

Establishments primarily engaged in the provision of services to customers or clients, which have one or more of the following characteristics: High customer volume, hand carried parcel delivery or mailing facilities, overnight parking for small service or delivery vehicles, or sale of non-mercantile items such as postage stamps, or public event tickets.

Typical uses include a catering establishment, private post office, direct mail advertising, theater ticket office, or a utility company business office, and all activity takes place within a completely enclosed building.

4.4.50 *Personal Services: Least Restrictive*

Establishments primarily engaged in the provision of services to customers or clients, which have one or more of the following characteristics: less desirable personal services that may negatively impact adjacent uses, overnight parking for small service or delivery vehicles.

Typical uses include tattoo parlors, body piercing shops, bail bond offices, parole and probation offices where all activity takes place within a completely enclosed building.

4.4.51 *Personal Storage*

Buildings containing enclosed individual rental storage facilities not exceeding eight hundred (800) square feet per unit. These facilities are not used for occupancy by uses other than storage or for sales purposes or storage of highly combustible materials. See Section 4.9.2 Use Chart.

Typical uses include mini-warehouses or mini-storage and storage for recreational vehicles, boats, or trailers. This category does not allow any outdoor storage except for currently licensed vehicles, boats or trailers.

4.4.52 *Repair Services: Consumer*

Establishments primarily engaged in the provision of repair services to individuals and households rather than to firms.

Typical uses include appliance and lawnmower repair; apparel repair; furniture repair and upholstering; musical instrument repair; electrical repair; shoe repair; jewelry repair shops; sewing machine repair; and watch or clock repair.

4.4.53 *Research Services*

Administrative offices plus research facilities of a technical or scientific nature, which are located within a completely enclosed building. There is no product manufacturing and no outdoor storage, display or activity.

Typical uses include electronics or medical research facilities, product testing laboratory, or a pharmaceutical laboratory.

4.4.54 *Retail Sales and Services: Restricted*

Establishments engaged in the sale or rental of new retail goods and services, of commonly used goods, merchandise, and services. See Section 4.9.2 Use Chart.

Typical uses also include; appliance stores; clothing stores; artist supplies; book or stationery stores; camera shops; furniture stores; hardware stores; garden store and plant nurseries, jewelry stores; music and instrument stores; radio, television, and/or computer stores; shoe stores; tailor shops; toy stores; frame shops; department stores; newsstands; record or tape stores; leather good shops; general stores; bicycle stores; and tobacco shops.

4.4.55 *Retail Sales and Services: General*

Establishments engaged in the sale or rental of goods and services, both retail and wholesale of commonly used goods, merchandise, and services. See Section 4.9.2 Use Chart.

Typical uses also include antique shops; secondhand merchandise; appliance stores; drapery shops, clothing stores; artist supplies; book or stationery stores; camera shops; furniture stores; hardware stores; jewelry stores; music and instrument stores; radio, television, and/or computer stores; shoe stores; tailor shops; toy stores; frame shops; department stores; auto part supply store; monument sales; Also included are confectionary bakery or butcher stores employing fewer than 5 employees. (More than five (5) employees is considered 4.4.63 Light Industrial Restricted.)

4.4.56 *Retail Sales and Services: Least Restrictive*

All other retail establishments engaged in the sale or rental of goods and services, both retail, and some wholesale and secondhand used goods, merchandise, and services as an accessory to the retail use. See Section 4.9.2 Use Chart.

Typical uses also include Pawnshops, used merchandise/furniture, secondhand or consignment store.

4.4.57 *Retail Sales and Services: Outdoor Swap Meets*

The display, exchange, barter or sale of new or used common household items or office equipment and furnishings, carried out on any open lot.

Typical uses include flea markets where clothing, personal effects, household furnishings, and household appliances are sold or otherwise exchanged. Also included are farmer's markets.

4.4.58 *Sign: Non-Accessory*

A sign or advertising device (excluding subdivision development advertising signs) which directs attention to an activity, service, or product sold or offered elsewhere than on the premises on which the sign is located; the principal use of the land on which it is located.

4.4.59 *Spectator Sports and Entertainment: Restricted*

Establishments or places engaged in the provision of cultural, entertainment, athletic, and other events to spectators as well as providing space for social or fraternal gatherings. See Section 4.9.2 Use Chart.

These uses are conducted within an enclosed building with a capacity of five hundred (500) or less people and including retail sales and storage facilities that are incidental to the operation of such uses.

Typical uses include small dinner, movie and other theaters or amusement places.

4.4.60 *Spectator Sports and Entertainment: General*

Establishments or places engaged in the provision of cultural, entertainment, athletic, and other events to spectators as well as providing space for social or fraternal gatherings.

These uses are conducted in an enclosed building with a capacity of more than five hundred (500) people or in open facilities, and including retail sales, storage facilities, and other activities incidental to the operation.

Typical uses include large dinner, movie and other theaters or amusement places.

4.4.61 *Spectator Sports and Entertainment: High Impact*

Establishments or places engaged in the provision of cultural, entertainment, athletic, and other events to spectators as well as providing space for social or fraternal gatherings.

These uses are conducted in an enclosed building with a capacity of more than five hundred (500) people or in open facilities, which may generate significant noise, odor, traffic or other impacts and including retail sales, storage facilities, and other activities incidental to the operation.

Typical uses include drag strips; racetracks; fairgrounds; rodeo grounds; large exhibition halls; sports stadiums; and trade expositions.

4.4.62 *Tourist Accommodations: Campground*

Campground services involving temporary accommodations areas for travelers, recreational vehicles, or tents, including food, drink, and other sales and services intended for the convenience of guests. See Section 4.9.2 Use Chart.

Typical uses include recreational vehicle parks, and campgrounds.

4.4.63 *Tourist Accommodations: Lodging - Restricted*

Superior hotel and lodging properties that distinguish themselves with a high level of service and hospitality, as well as a wide variety of amenities, and upscale facilities as defined in Section 4.10.7 Hotel/Motel Special Use Permit Criteria, Guidelines and Requirements.

Typical uses included full service hotels and motels but do not include limited service, extended stay or suite hotels/motels. Any facility that does not meet the requirements of a full-service hotel/motel in these Regulations shall fall under tourist Accommodations: Lodging – General.

4.4.64 *Tourist Accommodations: Lodging - General*

Lodging services involving room accommodations for travelers, including food, drink, and other sales and services intended for the convenience of guests.

Typical uses include hotels; motels; and transient boarding houses in accordance with Section 4.10.7 Hotel/Motel Special Use Permit Criteria, Guidelines and Requirements, Hotel/Motel Special Use Permit Criteria, Guidelines and Requirements. Size and location of all retail facilities shall be subject to all the zoning district regulations in which the use unit is located.

4.4.65 *Off-Street Parking: Accessory Parking*

A sealed surface area, enclosed or unenclosed, sufficient in area for the parking of vehicles together with one or more sealed surfaced driveway(s) in conjunction with the primary use, connecting the area to a dedicated street or alley to permit ingress and egress of vehicular traffic. If the lot is incidental to an abutting use (separation by a street right-of-way is still considered abutting) the property upon which the parking lot is built shall be zoned at no less a zoning classification than the use to which it is incidental unless approved by Special Use Permit as prescribed in Section 7.6 Special Use Permit of the these Regulations. All provisions of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances and Section 5.3 Parking, Loading, and Driveway Access shall be complied with.

Accessory parking vehicle storage shall comply with Section 5.3.2 Off-Street Parking Standards.

4.4.66 *Off-Street Parking: Commercial Parking*

A sealed surface area, enclosed or unenclosed, sufficient in area for the parking of vehicles together with one or more sealed surfaced driveway(s) connecting the area to a dedicated street or alley to permit ingress and egress of vehicular traffic. A charge for use of the parking lot is paid by the users of the lot. Any structure(s) incidental to the use (i.e., gate/guard houses) may be located in front of the setback line but no structure(s) shall be permitted on street right-of-way. Commercial parking areas shall not be used for personal vehicle storage as defined below in Section 5.3.2 Off-Street Parking: Personal Vehicle Storage. All provisions of Section 5.2 Screening and Landscaping, Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances and Section 5.3 Parking, Loading, and Driveway Access shall be complied with.

Commercial parking vehicle storage shall comply with Section 5.3.2 Off-Street Parking Standards.

4.4.67 *Off-Street Parking: Personal Vehicle Storage*

A sealed surface area, enclosed or unenclosed, sufficient in area for the parking of vehicles together with one or more sealed surface driveway(s) connecting the area to a dedicated street or alley to permit ingress and egress of vehicular traffic. Area is used for individual vehicle storage for which a charge for use of the storage area is paid. These areas are not used for sales purposes or storage of highly combustible materials.

Typical uses include storage of recreational vehicles, campers, boats or trailers. All provisions of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances and Section 5.3 Parking, Loading, and Driveway Access shall be complied with.

Personal vehicle storage shall comply with Section 5.3.2 Off-Street Parking Standards.

4.5 Industrial Use Unit Classifications and Regulations

Industrial use unit classifications include the on-site storage, manufacture, assembly or processing of products and goods not otherwise classified as agricultural or extractive.

4.5.1 *Custom Manufacturing*

Establishments primarily engaged in the on-site production of goods by hand manufacturing which involves only the use of hand tools or small mechanical equipment not exceeding five (5) horsepower or three (3) kilns not exceeding eight (8) kilowatts each and the incidental direct sale to consumers of only those goods produced on-site. See Section 4.9.2 Use Chart.

Typical uses include ceramic studios, candle making shops or custom jewelry manufacturers.

4.5.2 *Light Industrial: Restricted*

Establishments engaged in the manufacture, assembly, research, or processing with all operations and processes entirely within an enclosed structure. There is no outdoor storage of raw materials and products. See Section 4.9.2 Use Chart.

Establishments have no outdoor industrial wastewater treatment system and produce no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation.

Typical uses include, but are not limited to, bakery, confectionary or butcher store employing more than five (5) full time employees; book binder; cabinet or woodworking shop; clothing manufacturing; electronic equipment assembly and manufacturing; furniture upholstering; ice plant; laundry and dry cleaning plant employing more than five (5) full time people; printing plant; engraving plant; instrument and meter manufacture; mattress renovation; optical goods manufacture; photographic equipment manufacture.

4.5.3 *Light Industrial*

Establishments engaged in the manufacture, assembly, research, or processing with operations and processes entirely within an enclosed structure. Outdoor storage of raw materials and products is permitted with proper screening.

Establishments have no outdoor industrial wastewater treatment system and produce no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation.

Typical uses include, but are not limited to, bottling plant; candy manufacture; cosmetic manufacture; rubber stamp manufacture; pottery and figurine manufacturing; machine shop; sign manufacturing and stone and monuments works.

4.5.4 *Moderate Industrial*

Establishments engaged in the manufacture, assembly, research, or processing with outdoor storage of raw materials and products being permitted with proper screening.

Establishments shall meet all applicable federal, state and municipal standards for any airborne emissions, noise, glare, odor, vibrations, smoke or dust associated with the industrial operation and shall not produce any adverse effects beyond the property line.

Typical uses include, but are not limited to, candle manufacture; cotton gin; cotton seed oil manufacture; dyestuff manufacture; soap manufacture other than liquid soap; soda and compounds manufacture; tobacco (chewing) manufacture or treatment; wool pulling or scouring; blacksmith's shop; dying or storage yard; emery cloth or sandpaper manufacture; fish smoking or curing operations; cold rolled steel mills; welding shops, glass manufacture or processing; and planing mill, collection and compression of aluminum cans and glass for recycling. See Section 4.9.2 Use Chart.

4.5.5 *Heavy Industrial*

Establishments engaged in the manufacture, assembly, research, or processing with outdoor storage of raw materials and products being permitted with proper screening.

Establishments shall meet all applicable federal, state and municipal standards for any airborne emissions, noise, glare, odor, vibrations, smoke or dust associated with the industrial operation and even though these standards are met, noise, vibrations, smoke, dust and odor may cause adverse impacts to adjacent properties.

Typical uses include, but are not limited to, chemical and allied product manufacturing, slaughterhouse and packing plants; smelting of tin, copper foundries; boiler works; tire or rubber manufacture; paint manufacture; fat rendering; fertilizer mixing; glue manufacture; blast furnace; brick, tile, pottery or terra cotta manufacture other than manufacture of handcraft products only; celluloid manufacture or treatment; central mixing plant for concrete or cement mortar, plaster or paving materials; coke oven; creosote manufacture or treatment; distillation of bones, coal or wood; stove polish manufacture; tallow grease, or lard manufacture or refining from, or of animal fat; tanning, curing or storage of rawhides or skins; tar roofing or water proofing manufacture; vinegar manufacture; potash manufacture; automotive manufacture or assembly; lampblack manufacture; bag cleaning; match manufacture; oilcloth or linoleum manufacture; pickle manufacture; pyroxylin manufacture; rock crusher; sauerkraut manufacture; shoe polish manufacture. Small concrete batch plants must get a SUP in accordance with Section 5.7.4 Small Concrete Batch Plant.

4.5.6 *Hazardous Industrial*

Establishments engaged in operations, research, or processes involving explosives, radioactive materials, caustic or toxic substances, or other material posing a potential threat to public safety and health or to property. Outdoor storage of raw materials and products is permitted as long as appropriate state and federal health and safety standards are met. See Section 4.9.2 Use Chart.

Typical uses include, but are not limited to, hazardous chemical and acetylene gas manufacture or storage; acid manufacture; plating establishment, alcohol manufacture; ammonia, bleaching powder or chlorine manufacture; cement, lime, gypsum or plaster of paris manufacture; fertilizer manufacture; gas manufacture; refining of petroleum or its products; asphaltic mixing plants and/or asphalt plants; disinfectant manufacture; pesticides, herbicides or poison manufacture and/or storage; explosives manufacture or storage; refining, recycling or processing of radioactive materials.

4.5.7 *Scrap Operations*

Places of business primarily engaged in the storage, sale, dismantling or processing of used or waste materials that are not intended for reuse in their original form.

Typical uses include automotive wrecking operations, scrap or junk yards, paper or material salvage yards.

4.5.8 *Wholesaling, Storage and Distribution: Restricted*

Wholesaling, storage and warehousing services within enclosed structures.

Typical uses include wholesale distributors including apparel, paper products, groceries, drug and pharmaceuticals; storage warehouses or moving and storage firms; meat or food lockers, soft drink and alcoholic beverage storage and distribution.

4.5.9 *Wholesaling, Storage and Distribution: General*

Open-air wholesale sales and storage, distribution and handling of materials and equipment. See Section 4.9.2 Use Chart.

Typical uses include wholesale lumberyard monument or stone yards; oil field pipe storage, bulk fuel and petroleum products, sales and storage; heavy machinery storage, grain elevators; and outdoor storage yards where activity may generate noise and dust.

4.6 Transportation Use Unit Classifications and Regulations

Transportation use types include facilities for the movement of people or goods by either public or private organizations.

4.6.1 *Transportation Facilities: Passenger*

Surface facilities that contribute to the movement of people on a local or cross-country basis.

Typical uses include light rail station, commuter rail station, bus charter services or bus station, limousine services and taxi stands.

4.6.2 *Transportation Facilities: Freight, Restricted*

Facilities that contribute to the surface movement of inter-city freight, including processing, loading, and transferring. All freight goods are stored within enclosed buildings and outside activity is restricted to loading of these goods.

Typical uses include trucking companies, cross country truck lines and their distribution warehouses, with supplementary parking of tractors and trailers.

4.6.3 *Transportation Facilities: Freight, General*

Facilities that contribute to the surface movement of inter-city freight and heavy equipment, including processing, loading, and transferring. Freight goods and materials may be stored outside. See Section 4.9.2 Use Chart.

Typical use is a railroad classification or marshalling yard with supplementary containerized or raw material loading facilities and storage of rolling stock.

4.6.4 *Transportation Facilities: Aircraft*

Permanent and temporary facilities that provide access to airborne transport for people and goods.

Typical uses include airports, landing strips, heliports, and helicopter landing pads.

4.7 Agricultural Use Unit Classifications and Regulations

Agricultural use types include the on-site production, harvesting and processing of plant and animal products.

4.7.1 *Agricultural Processing: Limited*

Packing or processing of crops grown on the premises, including picking, cutting, sorting, and boxing; but not including canning, reduction, or similar activity.

4.7.2 *Agricultural Processing: General*

Packing or processing of crops and their by-products raised on or off the premises, including picking, cutting, sorting, and boxing; but not including canning, reduction, or similar activity.

4.7.3 *Animal Raising: Personal*

Premises that are five (5) acres or larger where animals are fed or kept for personal use and for agriculturally related projects by the owner or occupant of the premises.

Typical animals include horses, chickens, cattle, and sheep. See Section 4.9.2 Use Chart.

4.7.4 *Animal Raising: Commercial*

Premises where animals are fed or kept for commercial purposes or projects by the owner or occupant of the premises.

Typical uses include beef ranches, sheep ranches, pig farms, chicken farms, and dairy farms but exclude stockyards or commercial feedlots. On all tracts of land containing less than forty (40) acres, the raising of hogs shall be prohibited.

4.7.5 *Animal Waste Processing*

Processing of animal waste and by-products, including but not limited to, animal manure, animal bedding waste, and similar by-products of an animal raising agricultural operation, for use as a commercial fertilizer or soil conditioner and including composting operations.

4.7.6 *Horticulture*

Such uses are primarily devoted to the cultivation and storage of horticultural and floricultural specialties such as flowers, shrubs, and trees intended for ornamental or landscaping purposes on a wholesale or retail sales basis. See Section 4.9.2 Use Chart.

Typical uses include plant nurseries.

4.7.7 *Row and Field Crops*

Premises primarily devoted to the cultivation, primarily for sale rather than home consumption, of agricultural products grown in regular or scattered patterns such as wheat, field, forage, and other plant crops intended to provide food or fibers.

4.8 Extractive Use Unit Classifications and Regulations

Extractive use unit classifications include the on-site production of mineral products by extractive methods.

4.8.1 *Mining and Processing: Minerals and Raw Materials*

Places primarily devoted to surface or subsurface mining, excavation, or extraction of metallic and nonmetallic materials with essential on-site processing of such products.

Typical uses are a borrow pit, sandpit, quarry, or mine.

4.8.2 *Mining and Processing: Oil and Gas*

Places primarily devoted to subsurface mining of oil and gas.

Typical uses are oil and gas drilling operations. All provisions of Section 5.7.7 Mining and Processing: Oil and Gas, Section 7.1 Universal Procedures and Ordinances Regulating Oil and Gas Wells including Chapter 38 of the Environment Ordinance, Section 2, Oil and Gas Wells of the Shenandoah Code shall be met.

4.9 Use Charts

The use of land or buildings shall be in accordance with those listed in the following Use Chart, Section 4.9.2 Use Chart. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located.

4.9.1 *Use Chart Legend*

The legend for interpreting the permitted uses in the Use Chart is as follows:

(a) *Uses permitted-by-right.*

Uses permitted by right are indicated by the letter “X” within a green box.

(b) *Uses not permitted.*

Uses not permitted are indicated by an empty box.

(c) *Uses permitted by Special Use Permit.*

Uses permitted by a Special Use Permit, as outlined in Section 7.6 Special Use Permit of this Zoning Ordinance, are indicated by the letter “S” within a yellow box

4.9.2 *Use Chart*

Table 4.9.2 0 Use Chart

X	Indicates a Permitted Use
S	Indicates a Special Use Permit is Required
+	Indicates the Addition of a Use over the Base Zoning
-	Indicates the Deletion of a Use over the Base Zoning

Use Unit		Use Type	Residential											Mixed Use			Non-residential									Use-Specific Standards
			IZ	R-35	R-22	R-10	R-1	R-6	R-2	R-3	R-HD		R-MH	MIX Overlay	RC	SPH	O-1	OC	NS	C-2	C-3	CC	LI	I-2	I-3	
4.2	Residential Use Unit Classifications	4.2.1 Single-Family Detached Residential	X	X	X	X	X	X	X	X	X			-												Lot Size Variety within Residential DistrictsSingle-Family Driveways and Garages
		4.2.2 Two Family Attached Residential (Duplexes)							X	X	X			-												
		4.2.3 Townhouse (Single-Family Attached)								X	X			X+	X											
		4.2.4 Multifamily Residential								X	X			X+	X											
		4.2.5 Manufactured Home Residential (HUD code)	X										X													
		4.2.6 Industrialized Home Residential (Prefabricated or Modular Home)	X	X	X	X	X	X	X	X	X															
		4.2.7 Mobile Home	X										X													
		4.2.8 Group Residential	S	S	S	S	S	S	X	X	X			X+	X											Regulations of Specific Uses
		4.2.9 Home Occupation	X	X	X	X	X	X	X	X	X			X+	X											Home Occupations
		4.2.10 Garage Apartment Attached/Unattached	S	S	S	S	S	S	X	X	X															
4.3	Public and Quasi-Public Use Unit Classifications	4.3.1 Public Service or Utility: Light	X	X	X	X	X	X	X	X	X		X	X+	X	X	X	X	X	X	X	X	X	X	X	
		4.3.2 Public Service or Utility: Moderate	X	S	S	S	S	S	S	S	S		S	X+	S	S	S	S	S	S	S	S	S	S	S	
		4.3.3 Public Service or Utility: Heavy	S											-											S	
		4.3.4 Sanitary Landfill												-											S	
		4.3.5 Hazardous Waste Disposal												-											S	
		4.3.6 Low Impact Institutional: Neighborhood Related	X	X	X	X	X	X	X	X	X		X	X+	X	X	X	X	X	X	X	X	X	X	X	Regulations of Specific Uses
		4.3.7 Moderate Impact Institutional	S	S	S	S	S	S	S	S	S		S	S+	S	S	X	X	S	X	X	X	X	S	S	
		4.3.8 High Impact Institutional – Including Hospitals and Universities														X	S	X			S	S				
		4.3.9 Cultural Exhibits													X	X	X	X	S	X	X	X	S	S		
		4.3.10 Library Services and Community Centers		S	S	S	S	S	S	S	S		S	X+	X	X	X	X	X	X	X	X				
		4.3.11 Community Recreation: Restricted	X	S	S	S	S	S	X	X	X		X	X+		X	X	X	X	X	X	X				
		4.3.12 Community Recreation: General	S	S	S	S	S	S	S	S	S		S	X+		X	S	X	X	X	X	X				
		4.3.13 Community Recreation: Property Owners' Association		X	X	X	X	X	X	X	X		X	X+		X	X	X	X	X	X	X				
		4.3.14 Group Home	S	X	X	X	X	X	X	X	X		X	X+				S								4.10.2
		4.3.15 Group Care Facility	S						S	S	X		X	X+				S								
		4.3.16 Community-Based Care Facility												S+							S					

Table 4.9.2 0 Use Chart

X	Indicates a Permitted Use
S	Indicates a Special Use Permit is Required
+	Indicates the Addition of a Use over the Base Zoning
-	Indicates the Deletion of a Use over the Base Zoning

Use Unit		Use Type	Residential											Mixed Use			Non-residential									Use-Specific Standards
			IZ	R-35	R-22	R-10	R-1	R-6	R-2	R-3	R-HD		R-MH	MIX Overlay	RC	SPH	O-1	OC	NS	C-2	C-3	CC	LI	I-2	I-3	
		4.3.17 Wind Energy Conversion Systems (WECS)	S	S	S	S	S	S	S	S	S		S		S	S	S	S	S	S	S	S	S	S	S	Wind Energy Conversion Systems
		4.3.18 Solar Panels	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
4.4	Commercial Use Unit Classifications	4.4.1 Administrative, Financial, and Professional Office												X+	X		X	X	X	X	X	X	X	X	X	
		4.4.2 Adult Entertainment Enterprise												-												Section 10.3
		4.4.3 Agricultural Supplies and Services																	S	S	S	S	X	X	X	
		4.4.4 Alcoholic Beverage Retail Sales(Off premise consumption) CK 1987												S+	S	S		S	S	S	S	S	S	S	S	
		4.4.5 Animal Sales and Services: Auctioning												-								S				
		4.4.6 Animals: Grooming and Sales	S											X+					X	X	X	X				
		4.4.7 Animal Sales and Services: Horse Stables	S											-												
		4.4.8 Animal Sales and Services: Kennels and Veterinary, Restricted	S																X	X	X	X	X	X	X	
		4.4.9 Animal Sales and Services: Kennels and Veterinary, General	S											-								S	S	X	X	Regulations of Specific Uses
		4.4.10 Automotive Equipment and Repairs: Light																S			X	X	X	X	X	
		4.4.11 Automotive Equipment and Repairs: Heavy												-								S	S	X	X	
		4.4.12 Automotive Sales and Rentals: Light												S+							S	X	X	X	X	Development Regulations
		4.4.13 Automotive and Equipment Sales and Rentals: Heavy												-								S	S	S	X	
		4.4.14 Automotive and Equipment: Storage												-								X	X	X	X	
		4.4.15 Building Maintenance Services																S	S	S	X	X	X	X	X	
		4.4.16 Business Support Services												X+			X	X	X	X	X	X	X	X	X	
		4.4.17 Childcare Center and Adult Day Care Center							S	S	S			X+	X		S	S	S	X	X	X	S	S	S	Regulations of Specific Uses
		4.4.18 Childcare – Registered Family Home	S	S	S	S	S	S	S	X	X			X	X											
		4.4.19 Commercial Sales and Services: General												X	X		S	S	X	X	X	X	S	S	S	
		4.4.20 Commercial Sales and Services: Least Restrictive												X	X				X	X	X	X	X	X	X	
		4.4.21 Communications Services: Limited												X+	X				X	X	X	X	X	X	X	
		4.4.22 Communication Services: Towers/Antennas	S						S	S	S		S	S+			S	S		S	S	S	S	S	S	
		4.4.23 Construction Sales and Services																			X	X	X	X	X	Development Regulations
		4.4.24 Contractor Office/Shop/Sales: Limited (No outside storage or display)																S	S	X	X	X	X	X	X	
		4.4.25 Contractor Office/Shop/Sales: General																					S	X	X	

Table 4.9.2 0 Use Chart

X	Indicates a Permitted Use
S	Indicates a Special Use Permit is Required
+	Indicates the Addition of a Use over the Base Zoning
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Use Unit		Use Type	Residential											Mixed Use			Non-residential									Use-Specific Standards
			IZ	R-35	R-22	R-10	R-1	R-6	R-2	R-3	R-HD		R-MH	MIX Overlay	RC	SPH	O-1	OC	NS	C-2	C-3	CC	LI	I-2	I-3	
4.4	Commercial Use Unit Classifications	4.4.26 Convenience Sales and Personal Services												X+	X	X	S	X	S	X	X	X	X			
		4.4.27 Drinking Establishments																								Sec 4.10.6
		4.4.28 Eating Establishments: Drive-In												X+		X					X	X	X	X	X	
		4.4.29 Eating Establishments: Fast Foods including drive through windows												X+	X	X		X	S	X	X	X	X	X	X	
		4.4.30 Eating Establishments: Fast Foods, Alcoholic Beverages Permitted CK 1987												S+	S	S		S	S	S	S	S	S	S	S	Sec 4.10.6
		4.4.31 Eating Establishments: Sit-Down, Alcoholic Beverages Permitted												X+	X	X	S	X	X	X	X	X	X	X	X	
		4.4.32 Eating Establishments: Sit-Down, Alcoholic Beverages Permitted CK 1987												S+	S	S		S	S	S	S	S	S	S	S	Sec 4.10.6
		4.4.33 Food and Beverage Retail Sales including grocery stores												X+	X	X		X	S	X	X	X				
		4.4.34 Funeral and Interment Services: Animals	S											-												
		4.4.35 Funeral and Interment Services: Burial	S											-												
		4.4.36 Funeral and Interment Services: Cremating																				S	S	X	X	
		4.4.37 Funeral and Interment Services: Undertaking												X+				S		S	X	S	S			
		4.4.38 Gasoline Sales: Restricted												X+		S		S	S	X	X	X	X	X	X	
		4.4.39 Gasoline Sales: General																				S	X	X	X	
		4.4.40 Health Clubs												X+	X	X	X	X	S	X	X	X	X	X	X	
		4.4.41 Laundry Services												S	S	S		S	S	S	S	S	X	X	X	
		4.4.42 Manufactured Housing and Travel Trailers: Sales and Rentals																						X	X	
		4.4.43 Medical Services: Restricted												X+	X		X	X	S	X	X	X				
		4.4.44 Medical Services: General												X+	X		S	X	S	X	X	X				
		4.4.45 Participant Recreation and Entertainment: Indoor												X+		X		S	S	S	X	X	X			
		4.4.46 Participant Recreation and Entertainment: Indoor, Alcoholic Beverages Permitted												S+		X					S	X				
		4.4.47 Participant Recreation and Entertainment: Outdoor												S+		X					S	S	S			
		4.4.48 Personal Services: Restricted												X+	X		X	X	X	X	X	X				
		4.4.49 Personal Services: General												X+	X			S	S	X	S	S	S	S	S	
		4.4.50 Personal Services: Least Restrictive																S			S					
		4.4.51 Personal Storage																S			S	S	X	X	X	
		4.4.52 Repair Services: Consumer															S	S	S	X	X	X	X	X	X	
		4.4.53 Research Services															S	S	S	S	S	S	X	X	X	
		4.4.54 Retail Sales and Service: Restricted												X				X	X	X	X	X	X	X	X	
		4.4.55 Retail Sales and Services: General												X+	X				S	X	X	X				
		4.4.56 Retail Sales and Services: Least Restricted																				S	S	S	S	
		4.4.57 Retail Sales and Services: Outdoor Swap Meets																				S	S	S	S	

Table 4.9.2 0 Use Chart

X	Indicates a Permitted Use
S	Indicates a Special Use Permit is Required
+	Indicates the Addition of a Use over the Base Zoning
-	Indicates the Deletion of a Use over the Base Zoning

Use Unit		Use Type	Residential											Mixed Use			Non-residential									Use-Specific Standards
			IZ	R-35	R-22	R-10	R-1	R-6	R-2	R-3	R-HD		R-MH	MIX Overlay	RC	SPH	O-1	OC	NS	C-2	C-3	CC	LI	I-2	I-3	
4.4	Commercial Use Unit Classification	4.4.58 Sign: Non-Accessory														X							X	X	X	
		4.4.59 Spectator Sports and Entertainment: Restricted												X+		X		X	S	X	X	X				
		4.4.60 Spectator Sports and Entertainment: General												S+		X		S			S	X				
		4.4.61 Spectator Sports and Entertainment: High Impact														S		S				S	S			
		4.4.62 Tourist Accommodations: Campground											S			X						S				
		4.4.63 Tourist Accommodations: Lodging - Restricted													S	S		S				S	S	S	S	
		4.4.64 Tourist Accommodations: Lodging - General														S		S				S	S	S	S	
		4.4.65 Off-Street Parking: Accessory Parking	X	X	X	X	X	X	X	X	X	X	X	X+	X	X	X	X	X	X	X	X	X	X	X	
		4.4.66 Off-Street Parking: Commercial Parking												X+	X	X					X	X	X	X	X	
		4.4.67 Off-Street Parking: Personal Vehicle Storage	X																			X	X	X	X	
4.5	Industrial Use Unit Classifications	4.5.1 Custom Manufacturing												S+						S	S	S	X	X	X	
		4.5.2 Light Industrial: Restricted																				S	X	X	X	
		4.5.3 Light Industrial																					X	X	X	
		4.5.4 Moderate Industrial																					S	X	X	
		4.5.5 Heavy Industrial																					S	S	X	
		4.5.6 Hazardous Industrial												-									S		S	
		4.5.7 Scrap Operations												-											S	
		4.5.8 Wholesaling, Storage and Distribution: Restricted																			S	S	X	X	X	
		4.5.9 Wholesaling, Storage and Distribution: General																					S	S	X	
4.6	Transportation Use Unit Classifications	4.6.1 Transportation Facilities: Passenger																S				S	X	X	X	
		4.6.2 Transportation Facilities: Freight, Restricted																					S	X	X	
		4.6.3 Transportation Facilities: Freight, General																					S	S	X	
		4.6.4 Transportation Facilities: Aircraft	S															S					S	S	S	
4.7	Agricultural Use Unit Classification	4.7.1 Agricultural Processing: Limited	X											-									X	X	X	
		4.7.2 Agricultural Processing: General												-									S	X	X	
		4.7.3 Animal Raising: Personal	X	X										-												
		4.7.4 Animal Raising: Commercial	X											-												
		4.7.5 Animal Waste Processing												-											S	
		4.7.6 Horticulture	X											-							X	X	X	X	X	

Table 4.9.2 0 Use Chart

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Use Unit		Use Type	Residential											Mixed Use			Non-residential									Use-Specific Standards
			IZ	R-35	R-22	R-10	R-1	R-6	R-2	R-3	R-HD		R-MH	MIX Overlay	RC	SPH	O-1	OC	NS	C-2	C-3	CC	LI	I-2	I-3	
		4.7.7 Row and Field Crops	X											-												
4.8	Extractive Use Unit Classifications	4.8.1 Mining and Processing: Minerals and Raw Materials	S											-											S	
4.8	Extractive Use Unit Classifications	4.8.2 Mining and Processing: Oil and Gas	S											-								S	S	S	S	Mining and Processing: Oil and Gas

4.10 Regulations of Specific Uses

The following uses are subject to the regulations of any district in which they may be placed and are subject to the respective additional regulations in this section.

4.10.1 *Group Residential*

(Defined in Section 4.2.8 Group Residential)

(a) *When Located within the IZ, Interim Zoning District*

The number of occupants (residents plus number of staff normally on the premises at one time) shall not exceed. Each facility shall be at least twelve hundred (1,200) feet from any other group residential, group care facility or similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment care, supervision, or rehabilitation in a community setting.

(b) *When Located within the R-35, R-22, R-10, R-1, R-6, R-2, R-2-2, R-MH-1, or R-MH-2 Districts*

The number of occupants (residents plus number of staff normally on the premises at one time) shall not exceed ten (10) per facility. Each facility shall be at least twelve hundred (1,200) feet from any other group residential, group care facility or similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment, care, supervision or rehabilitation in a community setting.

(c) *Council Approval*

The Council, if an SUP is required, shall authorize the establishment of such a facility based upon the affirmative response to all of the following criteria:

(1) The facility is physically suitable for the residential area.

(2) The facility will meet the restrictive covenants and zoning ordinances of the area.

(3) The public health and safety of the affected property owners and the residents of the facility will be protected.

(4) The establishment of such facility in the residential area would be within good zoning practices.

4.10.2 *Group Care Facility including Group Homes*

(Defined in Section 8.3.158 Group Home)

(a) *When Located within the IZ, Interim Zoning District*

The number of occupants (residents plus number of staff normally on the premises at one time) shall not exceed twelve (12) per facility. Each facility shall be at least twelve hundred (1,200) feet from any other group residential, group care facility or similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment, care, supervision or rehabilitation in a community setting.

(b) *When Located within the R-35, R-22, R-10, R-1, R-6*

(1) The number of occupants (residents plus number of staff normally on the premises at one time) shall not exceed the number allowed in Section 4.3.14 Group Home. Each facility shall be at least six hundred (600) feet from any other group residential, group care facility or similar community residential facilities serving persons in drug, alcohol,

juvenile, child, parole, and other programs of treatment, care, supervision or rehabilitation in a community setting as noted below.

(2) The Council, if an SUP is required, shall authorize the establishment of such a facility based upon the affirmative response to all of the following criteria:

a. The facility is physically suitable for the residential area.

b. The facility will meet the restrictive covenants and zoning ordinances of the area.

c. The public health and safety of the affected property owners and the residents of the facility will be protected.

d. The establishment of such facility in the residential area would be within good zoning practices.

(c) *Group Home Compliance Required*

No Group Home care facility as defined Section 8.3.158 Group Home shall hereafter operate until a permit has been issued by the Director of Community Development or his designee stating that the facility complies with the provisions of this chapter.

(1) Location

No Group Home living arrangements shall be located within a radius of six hundred (600) feet of the home for which the permit is requested. Such measurements shall be measured from property line to property line. Other group living arrangements shall include, but not be limited to, homes for the mentally retarded, personal care facilities, adult foster care homes and group housing for handicapped persons. In making the determination that no home exists within six hundred (600) feet, the Director of Community Development or his designee shall consider information provided by the applicant, information contained in the records of the City of Shenandoah, and information obtained by physical inspection of the premises, if any.

(d) *Square Footage Minimum*

The applicant shall provide a site plan that clearly shows compliance with the following criteria:

(1) Any dwelling unit which is proposed to be utilized for shared group housing for the impaired shall provide as a minimum, the following square footage in each bedroom:

a. To house one (1) handicapped or impaired person per bedroom, the dwelling unit must provide one hundred (100) square feet of space per bedroom utilized for this purpose.

b. To house two (2) handicapped or impaired persons per bedroom, the dwelling unit must provide one hundred twenty (120) square feet of space per bedroom utilized for this purpose.

(2) Any single-family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons shall provide for a separate bedroom for the care provider or providers.

(e) *Permits and Inspection*

An inspection shall be conducted by the City of Shenandoah using as its criteria the appropriate portions of the requirements of the Minimum Licensing Standards for Facilities Serving Persons with Mental Retardation and Related Conditions, or its most current amendment as established by Texas Department of Health Bureau of Long Term Care, or the Minimum Licensing Standards for Personal Care Facilities as established and amended under Texas Health and Safety Code,

Section 247.001 et seq. In the event that the facility is licensed by the State of Texas, the Director of Community Development or his designee may waive all or any portion of the city health department's inspection.

(1) The facility shall comply with all applicable fire and building codes of the City of Shenandoah.

(2) The holder of the permit shall be in charge of and responsible for the operation of the dwelling unit for shared group housing.

(3) Permit shall be renewed annually so long as the facility continues to comply with the standards described in this section. Permits are nontransferable.

(4) The health department shall prepare a report describing the property and any remedial improvements that must be completed in order for the property to meet the minimum standards. The report shall be forwarded to the applicant and to the Director of Community Development or his designee, and no permit shall be issued until the proposed facility has met the minimum standards.

(5) City of Shenandoah inspection personnel shall have the right to conduct inspections to ensure continued compliance with standards at any time (pursuant to a valid search warrant or consent) and in the event a home is found to be in violation of the standards, the inspector shall forward to the director of planning and the senior planner a report describing the violations and that the Director of Community Development or his designee may withdraw the permit. Following withdrawal of the permit and issuance of a vacate order; the permit holder shall have the right to appeal the decision of the director of planning or his designee to the Board within ten (10) days.

(6) The permit shall be prominently displayed in the facility at all times.

(7) A twenty-five dollar ($25.00) permit fee shall be assessed to defray administrative and inspection costs for each permit issued. This fee may be adjusted as required by the Council.

(8) Any permit issued under this section shall become void and of no further effect in the event the use of the premises is discontinued for a period of one year, or if the property is restored to use as a single-family residence.

(9) Nothing in this section shall be construed as attempting to regulate or affect the right of handicapped individuals to purchase their own housing for single-family residences or to affect the right of individuals to care for handicapped family members. Nothing in this section shall be construed as attempting to regulate homes established pursuant to Article 1011(n), Vernon's Texas Civil Statutes.

4.10.3 *Animal Sales and Services: Kennels and Veterinary, General*

(Defined in Section 4.4.9 Animal Sales and Services: Kennels and Veterinary, General)

(a) *Outdoor space required for animal runs.*

A minimum outdoor area of five hundred (500) square feet shall be used for animal runs.

4.10.4 *Childcare Centers and Adult Day Care Centers*

(Defined in Section 4.4.17 Childcare Center and Adult Day Care Center)

Childcare centers and adult day care centers are permitted subject to the following provisions:

(a) *Zoning*

Childcare centers and adult day care centers shall be zoned in accordance with Section 4.9.2 Use Chart, the district regulations in which they are located, and shall comply with the regulations prescribed in **Chapter 10 of the Shenandoah Code**.

(b) *Meet Zoning Regulations*

Childcare centers and adult day care centers shall meet the parking, landscaping, screening, and other applicable regulations as required by these Regulations, Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

(c) *Certificate of occupancy and required licensing*

A certificate of occupancy and required licensing shall be obtained prior to the opening of any childcare center or adult day care center.

4.10.5 *Low Impact Institutional: Neighborhood Related*

(Defined in Section 4.3.6 Low Impact Institutional: Neighborhood Related)

(a) *When Located within a Residential Zoning District.*

Buildings and associated accessory buildings shall be set back from all interior side lot lines a distance of not less than thirty-five (35) feet, and from exterior side lot lines a distance not less than twenty-five (25) feet.

4.10.6 *Alcoholic Beverage Special Use**

*Cross references: Alcoholic beverages, Ch. 6.

(a) *Standards*

Mixed beverages, as defined in the V.T.C.A., Alcoholic Beverage Code, may be sold for on-premise consumption in restaurants and eating establishments only after such restaurants and eating establishments have obtained a Special Use Permit. Permits for the on-premises consumption of mixed beverages shall be allowed for restaurants with a gross floor area of:

(1) Five thousand square feet or more, provided at least ten percent of the total floor area shall be used as a kitchen, and not more than 20 percent of the total floor area shall be used as a bar/holding area; or

(2) Less than 5,000 square feet, provided at least ten percent of the total floor area shall be used as a kitchen; a bar/holding area shall not be permitted; and at least 70 percent of gross restaurant revenues shall be from the sale of food prepared on the premises.

(Ord. No. O-0010, § 82-87, 5-10-2000)

(b) *Auditing requirements*

Restaurants with a gross floor area of less than 5,000 square feet which obtain a Special Use Permit to serve mixed beverages shall be subject to the following auditing requirements:

(1) Not later than the last day of the month following each quarter, the operator shall file with the city secretary an affidavit on an officially approved form, that reflects gross sales for the preceding three-month and 12-month periods or since the restaurant began operation, whichever is less, breaking down the sales of food and mixed beverages.

(2) At the time of filing the gross sales report as required in subsection (1) of this section, the operator shall also file a copy of the filings supplied to the state for sales tax and

mixed beverages tax purposes. The operator shall be required to submit an annual audit, at the operator's expense, of gross sales broken down by food and mixed beverage sales. All such filings shall remain confidential.

(3) Upon a four-hour notice, the operator shall permit the city administrator or his designee to view the books, records and receipts relative to the sale of food and alcoholic beverages at any time. The Council, city administrator, city attorney or city secretary may also examine such records. Such records may be introduced in court for the purpose of showing the operator is in violation of this chapter.

(4) After a hearing, if it is determined that the operator's percentage of alcoholic beverage sales is above 30 percent of the gross sales for any quarter, the Council shall cancel the Special Use Permit upon notice to the operator. It shall be unlawful for any operator to fail to file the reports required in this section, and any operator convicted of failing to file such reports shall be fined $1,000.00.

(Ord. No. O-0010, § 82-87, 5-10-2000)

(c) *Additional requirement*

In addition to the requirements set forth in Sections 102-371 and 102-372, all applications for special use permits for the on-premises consumption of mixed beverages shall be subject to the following:

(1) An interior design plan shall be submitted showing the amount and arrangement of floor space and tables within the structure, with the usage of all areas clearly labeled. Such plan shall become a part and condition of the Special Use Permit.

(2) Indecent exposure, as defined in V.T.C.A., Penal Code § 42.01, shall not be permitted, nor shall the exposure of any portion of the male or female breast below the top of the nipple.

(3) All required off-street parking spaces shall be illuminated with a minimum of 2.5 foot-candles per square foot. Such lighting shall be installed in conformance with all applicable city codes and ordinances.

(4) All structures shall comply with all applicable city codes and ordinances, including the building, plumbing, electrical and fire codes.

(5) All rules and regulations of the state alcoholic beverage commission shall be complied with.

(6) Operators of establishments selling alcoholic beverages shall notify the city immediately in writing upon the cessation of operations of the establishment.

(Ord. No. O-0010, § 82-87, 5-10-2000)

(d) *Revocation*

(1) Upon obtaining a Special Use Permit, if any business establishment shall fail to meet the minimum guidelines set forth in this division, the city may, after proper notice, initiate proceedings before the Commission and the Council to revoke the Special Use Permit.

(2) Special use permits approved under this division may be revoked for reasons including, but not limited to, the following:

a. Failure to comply with the conditions of approval set by the Council;

b. The city police department files a written request through the city administrator's office to the Council asking for a review of the Special Use Permit on the grounds that the police department has received substantiated

complaints about the property involving "disorderly conduct," as such term is defined in V.T.C.A., Penal Code § 42.01;

c. The percentage of alcoholic beverage sales exceeds 30 percent for any quarter.

(Ord. No. O-0010, § 82-87, 5-10-2000)

(e) *Compliance*

(1) All persons engaging in the sale and distribution and on-premises consumption of alcoholic beverages shall comply with all of the requirements of this chapter, any amendments thereto and all applicable city codes. Any premises which is utilized for the sale or distribution and on-premises consumption of alcoholic beverages which is not in compliance with the ordinance from which this chapter is derived after passage of such ordinance shall be subject to abatement under proceedings before the Board.

(2) The city, property owner or any interested property owner in the area may initiate abatement proceedings before the Board. The city may elect to discontinue any licenses concerning the sale, distribution or consumption of alcoholic beverages required by law, or may impose the criminal penalties set forth in this chapter against the property owner.

(3) The initial business establishment, whether tenant or landowner, shall obtain a Special Use Permit for the particular business establishment. Succeeding similar establishments or changes in ownership at the same location subject to the Special Use Permit must obtain a Zoning Alcohol Permit (ZAP) approved by the Council. The ZAP will be approved if the application is in accordance with applicable city codes and conforms to the requirements and approved site plan of the original SUP ordinance. All such establishments must at all times conform with the minimum guidelines set forth in this division.

(Ord. No. O-0010, § 82-87, 5-10-2000)

4.10.7 *Hotel/Motel Special Use Permit Criteria, Guidelines and Requirements*

(a) *Purpose*

These Hotel/Motel requirements are meant to encourage the development of Hotel/Motel properties that meet minimum requirements and provide a wide variety of amenities and upscale facilities. They are intended to provide plans and urban design guidelines or standards requiring quality development that is consistent with the character of the district. The following criteria, guidelines and requirements shall be utilized in the granting of Special Use Permits for Hotel/Motel projects.

(b) *Special Use Permit and Site plan required*

A Special Use Permit in accordance with Section 4.9.2 Use Chart is required for all Tourist Lodging-properties and shall require a site plan. The SUP shall be processed in accordance with the same review, public hearing, and notification procedures as are required for a proposal for a zoning district change in Section 7.6 Special Use Permit.

(c) *Minimum standards for limited purpose or extended stay or suite hotel/motels, inns, and any other hotel/motels*

(1) Area requirements. Hotel/Motels shall conform to the related standards listed within Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts unless superseded by this section.

(2) Yard/Setback requirements

a. Side yard.

1. Abutting residential property. The hotel building shall be set back one hundred (100) feet from any single-family residentially zoned property line or property used primarily for single-family residential purposes.
2. Abutting non-residential property. A minimum side setback as specified in Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts shall be required, unless Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) requires more.

b. Rear yard.

1. Abutting residential property. The hotel building shall be set back one (100) hundred feet from any single-family residentially zoned property line or property used primarily for single-family residential purposes.
2. Abutting non-residential property. A minimum rear setback as specified in Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts shall be required, unless Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) requires more.

c. Outside storage. One-story outside storage not exceeding 1,000 square feet shall be allowed to within thirty five (35) feet of the common property line of single-family zoned property, and must be fully screened with masonry and facing away from the single-family property.

(3) Site Design, Orientation and building access.

a. Principal Hotel buildings shall be oriented toward public streets in order to create a pedestrian-oriented environment.

b. A principal building must have its main entrance from a public sidewalk or plaza, or from a private sidewalk or plaza that is publicly accessible through a public-use easement. The main entrance shall not be from a side parking lot. Secondary entrances from side parking lots are permitted. Interior buildings constructed as part of a campus type development are exempt from these requirements.

c. The street-facing portion of an interior oriented building cannot be built as a monolithic wall facing the street. Architects shall utilize a variety of compatible exterior materials, building styles, massing, composition, articulations, and/or prominent architectural features to break up such street facing walls.

d. Extensions into or over rights-of-way or access easements.

1. Outdoor eating areas may extend into rights-of-way or access easements of streets or public ways, if a minimum sidewalk clearance and/or distance to curb line of five feet is maintained.
2. Canopies, balconies, stoops, bay windows, awnings, planting beds, signs, and other building projections may extend into rights-of-way or access easements, if a minimum sidewalk clearance and/or distance to curb line of five feet is maintained at ground level.

(4) Screening

a. Screening of any hotel project shall meet the landscaping, screening, and other applicable regulations as required by these Regulations, Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances

b. Wooden fences. As part of any new or renovation in excess of 50% of the appraised value of an existing Hotel project, existing wooden fences on the commercial property between commercial and single-family residential properties must be replaced with approved walls, fences, or vegetative screening as described herein.

c. Screening fence and wall requirements. Pedestrian access from contiguous residential and commercial streets is encouraged. Applicants shall document an attempt to involve nearby residents in project development and offer outreach meetings with contiguous residential owners and tenants. City staff shall assist in this process. The applicant must strike a balance between the need for residents' security and the type of interaction with its settings that Hotel development promotes. Rather than front-facing perimeter walls, applicants should place needed security walls/fences between buildings with security gates at breezeway entrances, for example. Walls or fences shall not extend beyond building fronts. Where used, especially for rear-yard screening, fences and walls shall be erected to a height of not less than six feet in height nor greater than eight feet in height unless otherwise provided. If used, screening fences or walls shall be permanently and adequately maintained by the owner of the property on which the fence is required to be erected. Only the following types of walls or fences shall qualify as a screening fence or wall required by this zoning district:

1. Masonry screening wall or fence. Required masonry screening fences or walls shall be constructed with the finish side out and of any of the following materials: native stone, brick, and pre-stressed concrete panels with decorative finish or decorative concrete masonry units. Common smooth-face masonry units are prohibited. The Council may approve in the SUP process alternative materials used as an accent but comprising no more than 20 percent of such fence.
2. Vegetative screening. Using approved plants and fence materials, vegetative screens may be proposed in addition to a solid, opaque, masonry-screening fence.

d. Screening of roof-mounted equipment. All roof-mounted equipment which rises above the roofline of any building or structure shall be screened from view of any public street or contiguous residential area with a building material consistent and compatible with the building.

e. Screening of outside equipment. All outside equipment such as air conditioners, pool equipment, satellite dishes over 36 inches high, etc., shall be screened from view from any adjacent street by a masonry solid fence or dense shrubbery/landscaping.

f. Screening through use of masonry walls, landscaping or appropriate combinations is required for all storage, service portals, garbage areas, and service driveways that are contiguous to other properties.

Refuse containers. All refuse and refuse containers shall be screened from view of all public streets and contiguous residential areas by a masonry wall

and be in accordance with Section 5.2.4(h), Sght-Proof Screening Requirements, Additional Requirements.

(5) Sidewalks. Sidewalks or other approved pedestrian designs are required along all yards facing public streets, except that this pedestrian path may be incorporated into plazas. All sidewalks or other approved pedestrian design walkways shall run along the entire length from end to end of the property lines and shall connect to any existing public walkway otherwise shall be stubbed out for future connectivity.

a. Pedestrian walkways should be protected from vehicular intrusions with landscaping, curbs, bollards, or other elements integrated into the overall streetscape design.

(6) Parking, loading, bicycles and access. All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in Section 5.3 Parking, Loading, and Driveway Access of which Table 5.3.2.(c) Specific Parking Requirements is included. Such requirements shall be met unless otherwise provided for below.

a. Shared access/cross access. Shared access/cross access are encouraged and may be required unless the terrain makes it virtually impossible. For hotels with planned retail centers and contiguous properties, provision to preserve future shared access is required if not provided immediately. Easements and dedications are required to provide and preserve shared access. For shared access that is to be preserved, the developer may be required to escrow with the city the amount of money estimated to be needed to construct the developer's portion of the shared access. If shared access has been provided or preserved by a contiguous property, subsequent projects on the property that does not have shared access must connect with the shared access that was provided or preserved.

b. Parking of large vehicles. Any parking designated for commercial vehicles, recreational vehicles and other large vehicles shall be placed in a location that is not adjacent to either any street or to any residentially zoned property.

c. Screening. If surface parking is located contiguous to the building, the parking should be screened by a decorative fence, wall or hedge in order to continue the build-to line of the contiguous building facades.

d. Parking and loading area setback from single-family residential zoned property. The parking and loading area (other than for required entrances and exits) shall be set back from the property line at least thirty five (35) feet or in accordance with Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance), whichever is greater, to provide a planting space which shall be permanently landscaped and maintained.

e. Structured parking facilities. Garages fronting major and minor arterials, as defined with the thoroughfare plan, shall be avoided unless otherwise determined to be appropriate in the Specific Use Process. Structured parking facilities utilizing a major or minor arterial for direct access, should be designed so that only the openings to accommodate vehicle entry/exit and pedestrian access are provided or visible at the street level. The remainder of arterial frontage shall be designed for hotel, retail, commercial, or civic uses other than parking.

f. Large surface parking lots shall be screened and broken up visually through landscaping, as provided by Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

(7) Building design

a. Building articulation shall be included on all facades. Blank facades shall not be exposed to public streets. Buildings with long facades (greater than 40 feet) should be massed and articulated by design elements including texture, canopies, transparency, and the vertical expression of structural bays so that the scale of the building does not overwhelm streetscapes.

b. A porte-cochere or other covered area shall be provided immediately adjacent to the building entrance nearest to the registration desk with an area for temporary parking of at least two vehicles underneath the covered area for guests checking in or out.

c. All units shall be accessed from an interior hallway, except for the first-floor units, which may have direct access from an enclosed interior courtyard instead of, or in addition to, hallway access.

d. Exterior balconies shall not be allowed within 200 feet of any single-family residentially zoned property or property used primarily for single-family residential purposes.

e. Buildings shall be designed to have an identifiable public address that corresponds to the main entrance of buildings in accordance with Section 11.0 Existing Chapter 90, Sign Ordinance.

f. All entrances and exits shall have a continuous pedestrian walkway that is connected to a public sidewalk.

g. A portion of the ground-level floor facing the primary street shall provide windows that allow for visibility into the hotel, motel and stores.

h. Buildings shall incorporate traditional horizontal elements such as building-based sills, cornices and rooflines to add interest, reduce the massive scale of the building and complement the character of contiguous buildings.

i. Large buildings should be articulated by breaking long walls into smaller components, avoiding facade flatness, with projections or indentations, with clearly marked entries, with differentiation between bottom floor, top floor, and the floors in between, and with a variety of roof designs.

j. Large centers should provide a public realm by providing defined public places and activity centers so that varied activities are encouraged. This can be accomplished by the utilization of greens, plazas, and streets fronted by closely contiguous buildings to provide some interest at the pedestrian level.

(8) Building materials

a. All new principle or primary and accessory construction shall have an exterior facade of a minimum of 80 percent glass, brick, masonry, stone, or other approved cementious type material on each facade. The remaining 20 percent may include one or a mixture of any other acceptable material of a contrasting color, texture or design. EIFS or similar materials used shall occur only when the material is placed at least eight feet above the ground level.

b. All roof material shall be either architectural textured 25-year minimum warranty composition shingles, standing seam metal, or tile. No wood shingle roofs are permitted. Any other proposed materials or flat roofs will need to be authorized at the time the Special Use Permit is allowed

(9) Noise. In this district, no noise from activities conducted within the business building shall be discernible above the ambient noise level beyond the property line. Noise generated at outdoor spaces such as music from outdoor restaurant seating must be controlled so as not to become a nuisance to contiguous properties.

(10) Common open space shall be reserved for the leisure and recreational use of all the project's occupants and be readily accessible. Common open space is land area of which at least 50 percent is not covered by buildings, structures or the required parking spaces. Common open space shall and its uses, maintenance, and improvement will be a condition of the Special Use Permit and run with the land for the benefit of occupants. The guideline for common open space is 20 percent of the project area. Landscaping requirements can be incorporated into the open-space requirement. The availability and nature of contiguous or nearby public open space and parkland may be considered in making a determination of required percentage of open space. Rooftops may also be considered as part of the SUP if it is considered a “green” rooftop.

(11) Amenities and interior design.

a. A minimum of 75 guest rooms shall be provided. Each guest room shall have a minimum area of 200 square feet, including sleeping area, bathroom, and closet space.

b. A lounge or waiting area with a minimum area of 450 square feet or six (6) square feet per guest room, whichever is greater, shall be provided. Atriums or other open areas may be counted as waiting area if seating is provided.

c. A lobby area (not counting the work area for hotel or motel employees) which is designed as part of the check-in/out area for guests with a minimum size of five square feet per guest room shall be provided. The lobby and lounge/waiting area may be designed as a single space but in such case, the area shall be a minimum of 450 square feet plus six (6) square feet per guest room. The lobby check-in/out area (registration desk) shall be open and unobstructed.

d. A meeting or conference room space shall be provided with either a minimum of 1,000 square feet or an area than can accommodate 50 patrons, whichever is greater. Individual guest rooms shall not be counted as meeting or conference room space.

e. Kitchen facilities offering hot food during breakfast dining hours and providing service to the guests with a minimum seating for 20 patrons shall be required.

f. A swimming pool with a minimum pool area excluding decking or surface area of 750 square feet shall be provided.

g. Recreational facilities should be provided such as, but not limited to, exercise rooms equipped with a least three types of exercise equipment, tennis or racquetball courts, spas or saunas, or other game areas upon approval by the city.

h. Daily housekeeping service shall be available to every guest room at no extra charge.

i. On-site staff shall be available 24 hours per day, seven days a week, to provide check-in/out services, custodial or maintenance response, or other guest services.

(12) Landscaping and Screening. The general requirements of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance), whichever is greater, to provide a planting space which shall be permanently landscaped and maintained unless superseded herein.

(13) Signs. The general requirements of Section 11.0 Existing Chapter 90, Sign Ordinance, Signs shall apply for Hotel/Motel signs unless superseded by this section.

(14) Lighting. Decorative lighting shall be installed and all lights shall have shielding to control views of the source of light from nearby residential areas, in accordance with Section 5.17 Outdoor Lighting and Glare Prevention.

(15) Security.

a. Crime prevention through environmental design (CPTED). All projects proposed under this district shall demonstrate consideration of design and architectural issues that can decrease the likelihood of crimes against persons using the project. Entries, alleys, driveways, stairways, public and private walkways and other personal safety features should be planned with crime prevention in mind.

b. Security cameras. A hotel/motel shall install and maintain, in proper operating order, security cameras in each interior hallway and lobby, in the parking lots, and at each exterior door. The cameras shall be placed to provide visibility to the front and rear exteriors of the building and to the swimming pool area. Monitors shall be provided for security and other hotel/hotel personnel so that on-site activities may be viewed at all times. Videotapes from security cameras shall be operating 24 hours a day and shall be kept a minimum of 30 days.

c. Magnetic keys. Guest room access shall be provided only through the use of magnetic access keys or equivalent security measures.

d. Exterior doors. Exterior doors (other than lobby doors) shall be locked after 10:00 p.m. and shall be equipped with an alarm or other device that will alert hotel/motel security and other personnel when the door has been opened.

e. Guest-room doors. Doors to guest rooms shall be solid core and meet the building and fire codes of the City of Shenandoah.

(d) *Zoning approvals*

(1) The Council reserves the right to approve any request for a hotel/motel development or redevelopment not in keeping with all the requirements set forth herein when in its judgment the proposed project will be of such high quality, innovative design, and/or architectural significance so as to complement surrounding development, satisfy an important market demand, or substantially contribute to the physical, social and/or economic well being of the community and surrounding region.

4.10.8 *Retail Commercial (RC) District Special Regulations*

(a) *Purpose*

This section describes the standards for the individual uses in the Retail Commercial (RC) District Ordinance. All permitted and special uses shall complete a site plan review process applying the substantive standards of this section. Uses may be permitted by right subject to the restrictions (see footnotes) provided in Section 4.9.2 Use Chart and the review and authorization by the City

Administrator, or a designee. Special uses may be approved subject to Section 7.6 Special Use Permit . The uses allowed within the RC Retail Commercial District are provided in Section 4.9.2 Use Chart.

(b) *Mixed Use and Allowed Uses*

Mixed-use buildings shall include permitted and/or special uses as specified in Section 4.9.2 Use Chart. The required mixture of uses is provided in sub-section (c) Performance Standards. Generally, incentives are provided for developments with retail and mixed use and for those that use structured parking thereby allowing an increase in use intensity. Only retail uses or restaurants as listed in Section 4.4.31 Eating Establishments: Sit-Down, Alcoholic Beverages not Permitted are allowed on the ground floor unless otherwise approved as part of a Special Use Permit request.

(1) Allowable floor area.

The floor area ratio (FAR) is determined by the following:

a. The landscape surface ratio (LSR), which accounts for all pervious surfaces on the subject property.

b. Building height.

c. At-grade or structured parking meeting the requirements of Section 5.3 Parking, Loading, and Driveway Access.

(2) Height averaging

When there are two or more buildings the maximum allowable height may be averaged to that allowed in sub-section (c) Performance Standards.

(c) *Performance Standards*

Within the *RC Retail Commercial District,* the following performance standards apply:

Use Type	Landscape Surface Ratio (LSR)[3]	Gross Floor Area Ratio (FAR)	Building Height	Parking		
Commercial[1]	0.20	0.32	1-2 stories	At-grade		
	0.20	0.36	3+ stories	At-grade		
	0.25	0.48	3+ stories	1.5 stories[4]		
Use Mixture					Permitted or Special Use (minimum stories)	(Office or Residential) - minimum stories
Mixed [1,2]	0.20	0.68	1 to 3 stories	At-grade	1	2 to 4
	0.20	1.41	4 to 10 stories	2 stories	2	4 to 8
	0.20	2.04	11+ stories	3 stories	3	7+

[1] The encouraged building height in the RC Retail Commercial District shall be two stories. Otherwise, the building height is limited only by the gross floor area ratios provided in this section.
[2] Mixed uses shall meet the requirements of Section 5.3 Parking, Loading, and Driveway Access, and can share or reduce the requirement in accordance with that Section.
[3] The minimum required total green space on each site shall be the greater of the minimum required landscape surface ratio (LSR) or the provisions of Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance).
[4] 1.5 parking stories assumes a combination of at-grade and structured parking.
[5] Applicable only to those retail uses allowed in the RC District in Section 4.9.2 Use Chart.
[6] Applicable only to those office and residential uses allowed in the RC District in Section 4.9.2 Use Chart.

Commentary:
The above table reflects the performance standards applicable to the permitted uses within the *RC Retail Commercial District*. This includes the standards for single and mixed use buildings. There are incentives integrated into the standards to allow an increased floor area to encourage retail use, structured parking, and increased intensity. For instance, the floor area ratio (FAR) increases from 0.68 for two- to five-story mixed use buildings to 2.04 for 10+ story mixed use buildings that include structured parking and at least 20 percent of the floor area devoted to retail use.

(d) *Building Design Standards*

In addition to the provisions of Section 5.12 Exterior Construction and Design Requirements. Masonry requirement; exemption, the following design guidelines shall apply within the RC Retail Commercial District. The purpose of these design guidelines is to facilitate quality building design outcomes. This is achieved by establishing standards that promote good design and a quality built environment. The graphics corresponding to each guideline illustrate the preferred standard of design (shown on the left) versus an unacceptable standard (shown on the right). Compliance with these guidelines shall be demonstrated by way of a site plan.

(1) Building scale

Larger new buildings (four or more stories or 250,000 square feet) and building

additions shall respect the scale of adjacent existing buildings by stepping down the height of the new building or building addition and/or reducing the length of the building facade or breaking the façade into smaller segments adjacent to the existing smaller structure.

(2) Cluster buildings to create pedestrian connections

Unless otherwise determined, owners shall create pedestrian connections. Multiple buildings or tenant spaces within a single project or an integrated business development shall create a positive functional relationship to one another and shall be clustered to achieve a pedestrian scale. This creates opportunities for plazas and pedestrian precincts while preventing long box-like rows of buildings. A pedestrian link shall be established between buildings with the use of an arcade system, trellis, colonnade, enhanced paving, building articulation and detailing, or similar feature. Any development upon a lot that is adjacent to any public right of way, easement, reserve or the like that requires a public pathway to be placed within such public right of way, easement, reserve or the like in accordance with the City's Master Park and Pathway Plan shall construct such pathway within the public right of way, easement, reserve or the like from property line to property line on any and all lot lines of said lot that are adjacent to any public right of way, easement, reserve or the like. Unless otherwise determined, all lots within the RC district shall make connectivity with existing or future parking lots, sidewalks, driveways or any internal lot vehicular and/ or pedestrian mobility surface by means of a driveway, sidewalk or equivalent access point, same width, radius, and material, connecting to an existing parking lot, driveway, sidewalk or other internal lot vehicular mobility surface or stubbed out for a future tie in for the adjacent lot to make such future tie in.

Illustration 4.5(a)
Building scale

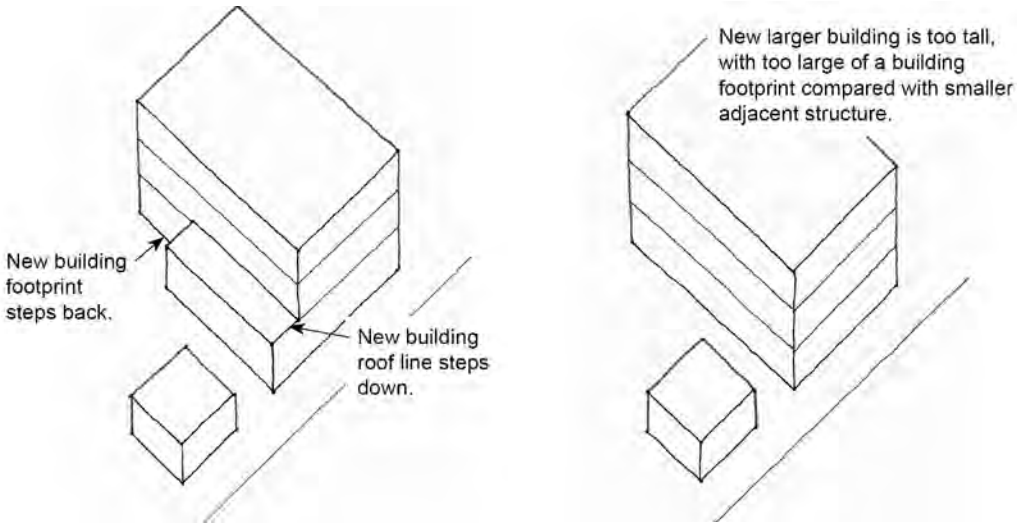
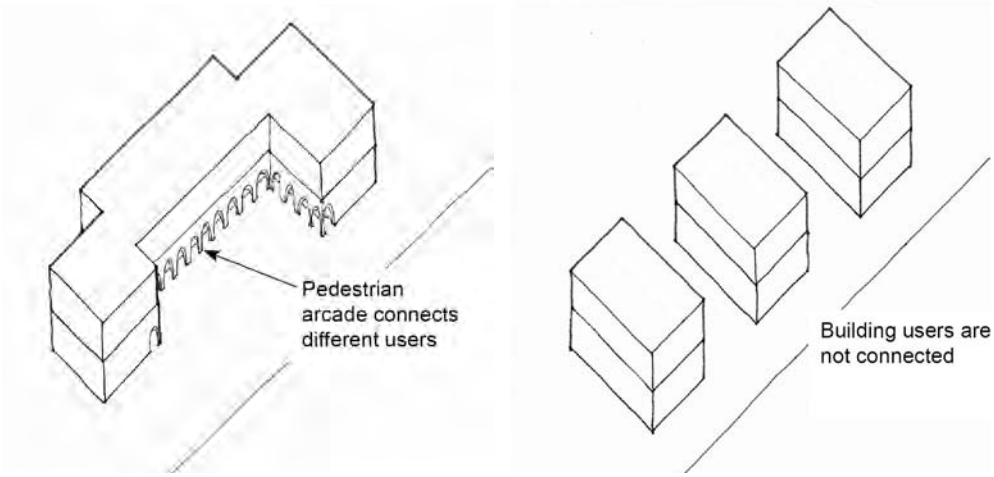


Illustration 14.5(b)
Cluster buildings to create pedestrian connections



(3) Architectural composition and articulation.

Architectural composition is the art of designing parts of a building to seamlessly fit together into a larger whole. Symmetry is when wings of a building are matched in size and character about a central point (often the primary entrance). Commercial buildings that face arterial streets and other public areas shall be articulated to reduce the apparent mass of the structure. They shall also be articulated to be sensitive to the pedestrian realm at the ground level. Moreover, in addition to the masonry requirements set forth in City of Shenandoah Code of Ordinances, fiber reinforced cement board, more commonly known as Hardi Plank, shall be prohibited from being used within the Retail Commercial Corridor District.

(4) Building transparency.

Buildings that face arterial streets shall have windows at the ground level for product display or other active building uses. Window glazing or tinting shall be light enough to allow good visibility of the window activities from the street.

Illustration 4.5(c)
Architectural Composition and Articulation

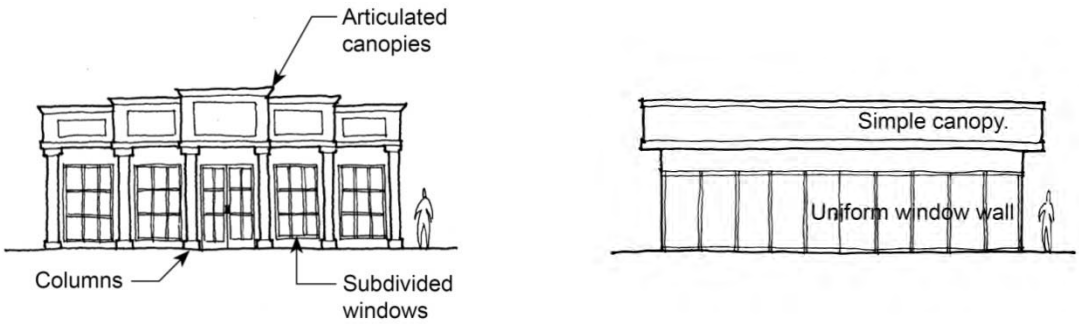
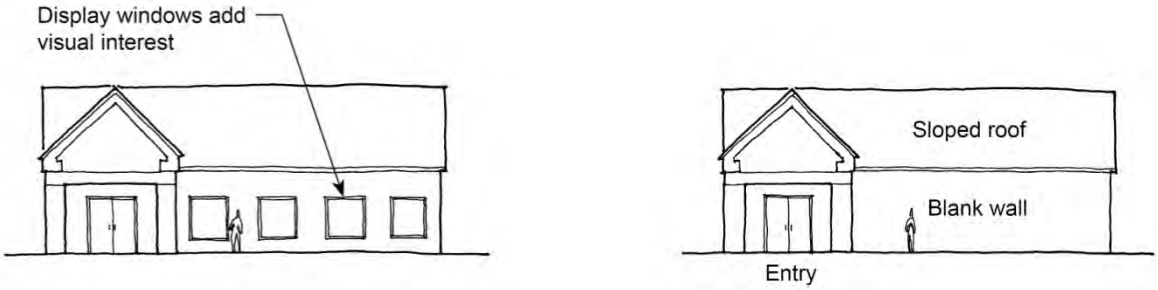


Illustration 4.5(d)
Building transparency



(5) Building entry identity.

The primary building entry shall be easily identifiable for building visitors arriving by car or on foot. The architecture of the building shall reinforce the visual importance of the entry. The entry shall be pedestrian-scale, transparent, and inviting.

(6) Pedestrian seating.

Pedestrian-friendly spaces shall be promoted by arranging building massing to form outdoor plaza areas for dining or gathering. Elements to increase pedestrian comfort may include, but are not limited to, seating, tables, planters, landscaping, canopies, and low intensity light fixtures.

(7) Awnings and canopies.

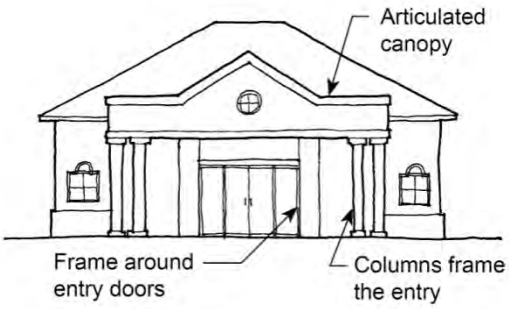
Unless otherwise determined, exterior weather protection shall be required for building facades that are adjacent to sidewalks or pedestrian areas. Awnings or canopies shall not extend from the building façade more than eight feet so as not to unnecessarily obstruct natural sunlight from the walkway and display windows. Arcades may extend to a greater width, but must include artificial lighting. Canopies/awnings shall consist of canvas, steel, standing seam metal, architectural metal, and/or perforated metal (excluding corrugated metal) and shall be maintained in good repair. Canopies/awnings shall be integrated into the building's architecture. Canopies or awnings shall have a common color scheme for the entire complex of façade and either

a. Be a maximum of a single color, or

b. Have two or more colors in a consistent pattern, or

c. Have an alternating color pattern where each awning alternates the color or pattern.

Illustration 4.5(e)
Building Entry Identity



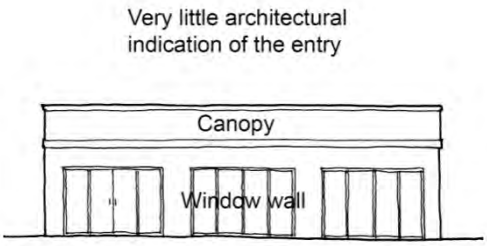
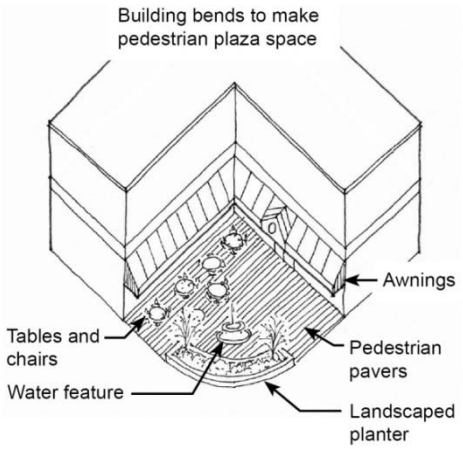
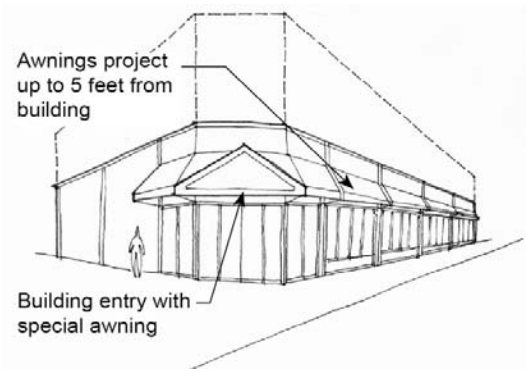
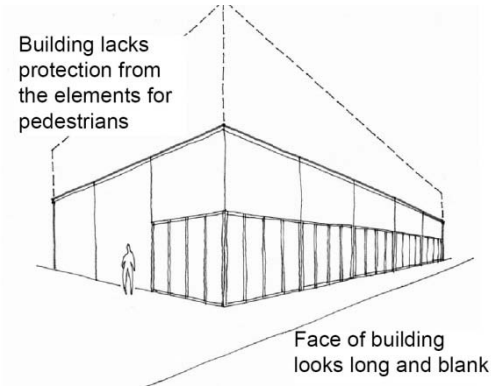


Illustration 4.5(f)
Pedestrian Seating







(8) Overhead door screening.

Businesses that have overhead doors shall be oriented on the site such that said overhead doors are perpendicular to the public street right-of-way or to the rear of the building. Overhead doors shall not be transparent and shall be consistent in color with the building wall for which it is attached.

(9) Service area screening.

Service areas including loading spaces and docks and trash enclosures shall be screened from adjacent service drives and adjacent properties, and, shall be located along the side or rear of buildings unless otherwise determined. Such screening materials shall match the building's exterior masonry materials and color.

(10) Secondary building façade treatment and articulation.

Secondary building faces (including the side and rear elevations of buildings that are not normally exposed to public view) shall have architectural articulation that relieves the monotony of large blank building walls.

Illustration 4.5(h)
Overhead Door Screening

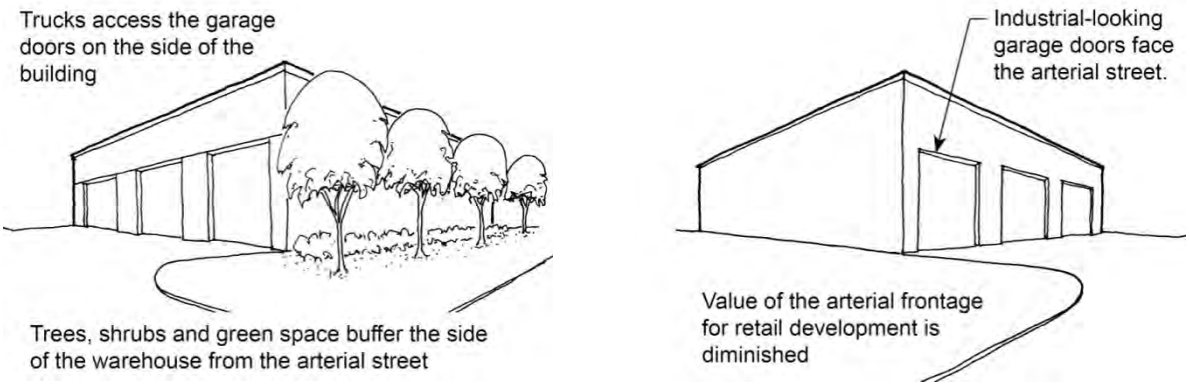


Illustration 4.5(i)
Service Area Screening.

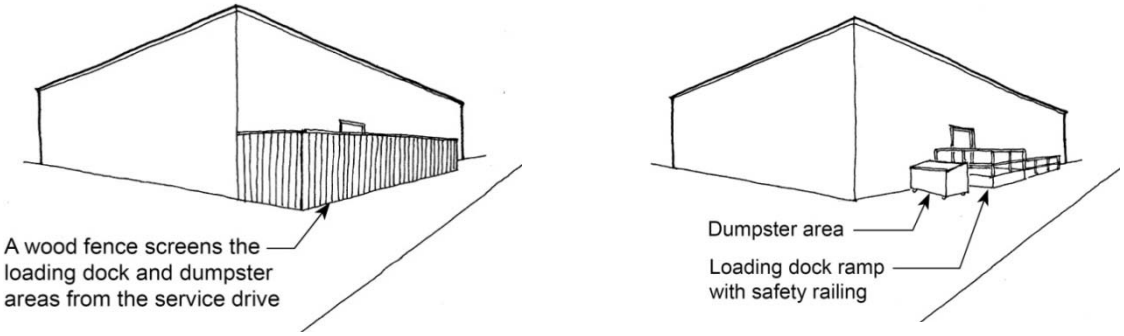
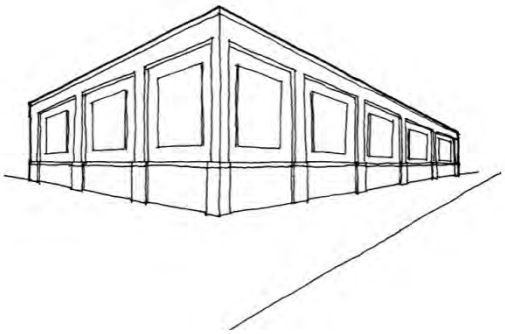


Illustration 4.5(j)
Secondary Building Façade Treatment and Articulation.



(11) Exterior equipment.

Exterior ground-mounted or building-mounted equipment to serve a building, including mechanical equipment, utility meter banks, and heating or cooling equipment, must be completely screened from public view with an architectural treatment compatible with the building's exterior materials and colors. Building mounted equipment shall be painted to match the building color on which it is attached.

(12) Rooftop equipment.

All rooftop equipment must be completely screened from public view at a vantage point of five feet above the ground elevation with a structural treatment that is compatible with the building architecture. The methods of screening rooftop equipment include the use of parapet walls and the encasement of partition screens. In the case of buildings within view of elevated sections of I.H. 45, an encasement of partition screens shall be utilized to comply with the intent of these provisions.

(e) *Building and Site Lighting*

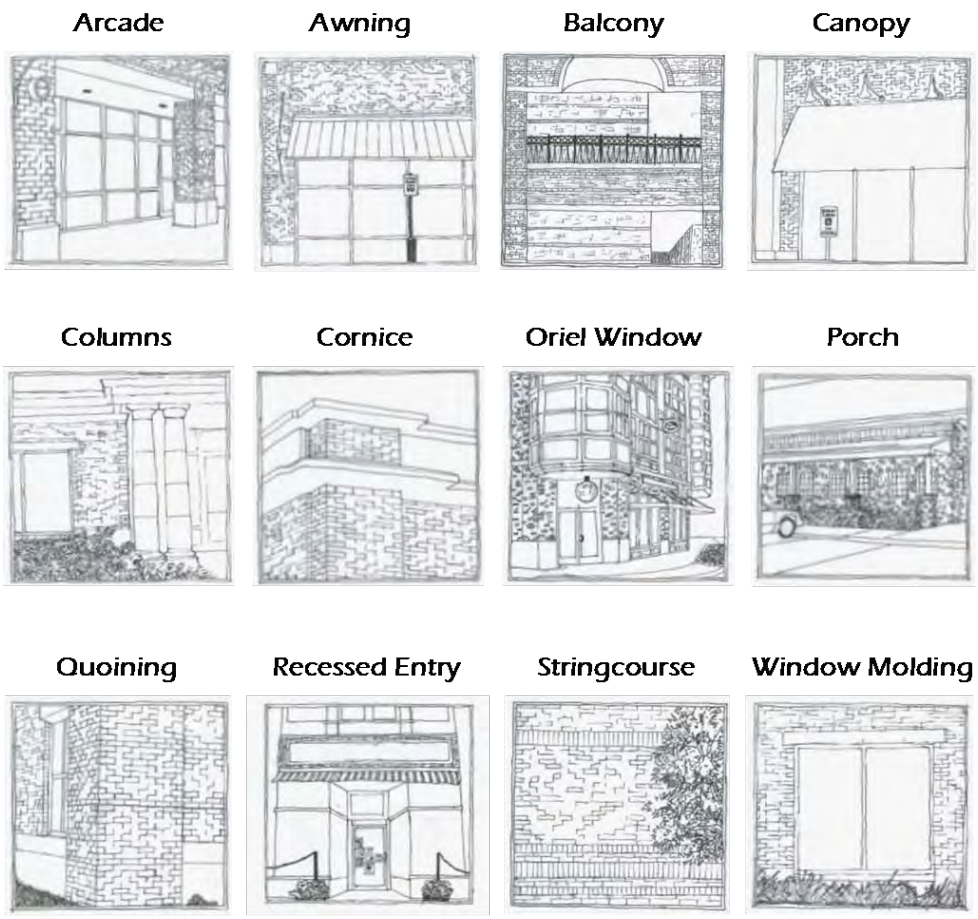
(1) Standards

a. Required

1. Building illumination and architectural lighting shall be indirect (no visible light source) and in such a manner that the projected cone of light does not cross any property line.
2. Building lighting from soffit overhangs is preferred over light fixtures mounted on the exterior face of buildings.
3. Only LED, incandescent, florescent, metal halide, mercury vapor, or color corrected high pressure sodium may be used.
4. Light standards for parking lots shall reflect or be complementary to the style of the building's architecture.
5. Standards shall not be greater than 20 feet in height.
6. Canopy lighting for uses that have sheltered outside work or service areas, such as gas stations, shall not exceed 60 foot-candles. The luminaries shall be recessed into the canopy so they cannot be viewed from off site from an eye height of four feet to protect automobile drivers from glare.
7. All fixtures shall be "cut-off" fixtures that limit lighting that is visible or measurable at the property line. All such fixtures shall be cut-off, so that the maximum illumination at a residential property line is zero foot-candles, and for other property lines no more than one foot-candle.
8. "No cut-off" fixtures may be used only for decorative purposes, provided they: have luminaries that produce no more than 1,500 lumens (approximately equal to a 100W incandescent bulb); have a maximum height of 15 feet; and use energy-efficient bulbs, such as compact fluorescent (CF).

(f) *Architectural Detailing*

Use of interesting architectural detailing that supports the quality and character expressed by these building design guidelines is required. Following are examples of such details, which shall be reviewed and approved during the site plan review process.



(g) *Non-residential Off-Street/On-Site Parking Regulations*

(1) Calculation

a. Upon determination by the City, off-street parking or shared parking may be allowed within the Retail Commercial Zoning District.

b. The number of off-street parking spaces required for each non-residential use shall be determined by reference to Section 5.3.1(a) and any other applicable off-street parking requirements as set forth in the City of Shenandoah Code or Ordinances.

c. Mixed uses and shared parking. A single building containing more than one type of land use or a single development of more than one building and use have very different parking requirements. In these instances, the off-street/on-site parking requirements shall be calculated individually. In mixed-use buildings and developments, the required parking is pursuant to this section.

d. Shared parking table. Shared parking allows a reduction in the total number of required parking spaces when a building or parcel is occupied by two or more uses that typically do not experience peak parking demands at the same time. When a mixed use building has two or more uses that are listed in the table below, in addition to the shared parking requirements set forth in the City of

Shenandoah Code of Ordinances, the minimum total number of required parking spaces may be determined by the following procedures:

e. Calculate the minimum required parking for each individual use in accordance with the space requirements outlined in Section 5.3.1(a) Off-street parking required.

f. Multiply the minimum required parking for each individual use, excluding spaces reserved for use by specified individuals or classes of individuals (e.g. handicap accessible spaces), by the appropriate percentage listed below for each of the designated time periods.

g. Add the resulting sum for each of the five vertical columns for the table. The minimum parking requirement is the highest sum resulting from the foregoing addition.

h. The applicable reduction in the minimum required total number of spaces is the difference between (1) and (3) above. The maximum reduction shall be 25 percent unless land is set aside for each parking space in excess of the 25 percent reduction that is not constructed, so that they may be constructed should they become necessary.

Use	Weekday			Weekend	
	Night (2AM to 6AM)	Day (6AM to 6PM)	Evening (6PM to 12AM)	Day (7AM to 4PM)	Evening (4PM to 7AM)
Office	5%	100%	10%	10%	5%
Retail / Commercial	5%	70%	90%	100%	70%
Overnight accommodations	80%	80%	100%	50%	100%
Restaurant/ Tavern	10%	50%	50%	50%	100%
Entertainment	10%	40%	40%	80%	100%
Others	100%	100%	100%	100%	100%

Example calculation assuming: Current parking requirements (spaces):

- 60,000 square foot retail 300
- 10,000 square foot indoor amusement 100
- 12,000 square foot restaurant 120

TOTAL **520**

Use	Night (2AM to 6AM)	Day (6AM to 6PM)	Evening (6PM to 12AM)	Day (7AM to 4PM)	Evening (4PM to 7AM)
Office					
Retail / Commercial	15	210	270	300	210
Overnight accommodations					
Restaurant/ Tavern	12	60	60	60	120
Entertainment	10	40	40	80	100
Others					
TOTALS	37	310	370	**440**	430

The minimum parking requirement is 440 spaces versus 520 spaces now required. This is a difference of 15 percent or approximately 24,000 square feet of impervious cover.

(2) Special shared parking study

A single building containing more than one type of land use or a single development of more than one building may have different hours of operation and peak parking demand hours. The City desires to encourage the sharing of parking and reduced impervious surfaces. Therefore, where a reduced parking need exists, an applicant may request a reduction in the number of spaces required. The methodology of Section (a) may be used. Otherwise, a special study shall be conducted by the applicant to document the parking required by reviewing peak loading times for uses during a 24-hour day and designing for the peak hour demand. The study shall provide data on the following:

a. The recommended parking needs of the project;

b. The sensitivity of the proposed uses to change;

c. Similar mixes of uses in other areas of the community; and

d. Degree of variability of parking for individual uses (average, range, and standard deviation).

e. The City may require a reserved open area if it believes that the risk of parking needs changing over time warrants reserved parking. Once the project is occupied and well established, if there is a surplus of parking, the applicant may petition for additional development capacity and parking using the reserved area.

When the reduction is to be applied to uses on several lots under different ownership, the following shall be met:

1. A plan that provides for interconnected lots and places cross easements on the parking areas and connections that permit parking by the different uses anywhere in the connected properties.
2. A pedestrian circulation system that connects uses and parking areas, making it easy and convenient to move between uses.

(h) *Landscaping and Screening Non-residential Requirements*

The standards set forth in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) and Section 5.2 Screening and Landscaping shall apply to the RC Retail Commercial District.

Section 5.0 Supplemental Regulations

5.1 Purpose

The purpose of this section is to supplement the regulations of the individual districts. Specific references have been made to this section for greater clarification, amplification, and specification. A violation of these supplemental regulations shall be a violation of the regulations of the zoning district in which the use is located.

5.2 Screening and Landscaping

5.2.1 *General*

Screening, landscaping and buffering shall be installed and maintained by the property owner in accordance with Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. In addition, the following screening requirements must be met.

5.2.2 *Screening Standards*

For the purposes of this section, the following words and phrases shall have the definitions as prescribed below:

(a) *Sight-proof screening and/or landscaping*

Sight-proof screening shall be:

(1) Sight-proof fencing or sight-proof landscaping, including decorative fencing, evergreen vegetation, or landscaped earthen berms maintained for the purpose of concealing from view the property or structure behind such fence, evergreen vegetation or berm; and

(2) Strategic placement of buildings to restrict view of items required to be screened by these Regulations. Such buildings can be used for screening individually or in combination with fences or landscaping elements.

(3) Additional requirements for the use of trees and shrubs may be found in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance).

(b) *Sight-proof fence*

A sight-proof fence is a fence or wall that conforms to the following standards:

(1) Eight foot on required screening. A minimum of six (6) feet but not more than eight (8) feet in height;

(2) Made of wood or metal using metal poles, masonry or other suitable material, which serves to beautify, decorate or adorn the property. A chain link fence is prohibited for required screening unless a special exception is granted in Industrial areas;

(3) Stockade (i.e., wood) poles are not permitted;

(4) Sufficiently stable to withstand wind force at fifteen (15) pounds of pressure per square foot;

(5) Permanently anchored to the ground by a base situated entirely upon its subject property;

(6) Obscures vision from one property to another; and

(7) Kept in an attractive state and in good repair at all times by the property owner.

(c) *Sight-proof landscaping*

Sight-proof landscaping shall conform to the following standards:

(1) Consisting of an evergreen vegetation or landscaped earth berm;

(2) A minimum of three (3) feet in height at planting and must grow to a height of at least six (6) feet within a three (3) year period; and be maintained of a minimum of six (6) feet thereafter.

(3) Must be planted in such a manner so that its growth pattern will obscure vision from one property to another within three (3) years; and

(4) Be kept in an attractive state and in good health at all times by the property owner.

5.2.3 *Residential Fencing and Screening*

Fences and walls may be erected in residential districts under the following provisions and regulations.

(a) *Fences and walls beyond or in front of the front building line*

Residential Districts are permitted to have fences and walls beyond or in front of the front building line. The properties must be developed in accordance with the following requirements:

(1) A fence may then be constructed to the front property line.

(2) All fencing extending beyond or in front of a front building line or extending to a side building line abutting a dedicated public street shall be wrought iron or wrought iron-like to allow visibility into the complex or residential lot by a person standing on ground level or sitting in a vehicle.

a. The wrought iron or wrought iron-like fence shall be constructed so as to eliminate the possibility of a child becoming trapped between the wrought iron rails, and shall not have any sharp points on top of, or on any other portion of the fence that may cause bodily harm.

b. The wrought iron or wrought iron-like fences may be installed with or without masonry pillars.

c. If security gates are proposed, provisions shall be coordinated with the City and made for emergency vehicle access such as: (1) security gate guard operating the gate whenever the gate is closed, or (2) an emergency system designed to allow entrance by emergency vehicles. Security gates must be approved by the city prior to installation. Provision shall be made for sanitation pick-up and water meter reading by the City if gates are to be installed that would not be manned by a twenty-four (24) hour security gate guard.

d. If a driveway gate is installed and the street paving is less than twenty-seven (27) feet wide, the gate shall be located a distance of no less than twenty (20) feet from the back of the curb of the public street to the front of the gate so as to allow a minimum of one (1) automobile to be located completely off the public street. In multifamily districts, all gates shall be setback fifty (50) feet from the back of curb.

(b) *Hedges*

Hedges are prohibited from extending into the street right-of-way.

(c) *Ornamental fences*

Except as authorized in Section 5.2.3 Fences and walls beyond or in front of the front building

line, properties are permitted to have ornamental fences up to four (4) feet in height located, placed, or erected to the front and side property lines of the residence. Any property owner desiring to erect a fence in front of the front or side building line in excess of four (4) feet that is not wrought iron and meeting the requirements of 5.2.3 above, shall first obtain approval of a special exception by the Board pursuant to Section 7.8.4(h) Provide for fencing in front of front and side setback building lines.
Ornamental fences shall have a minimum of fifty (50) percent of the entire fence area to be open to allow visibility into the front or side yard.

(d) *Rear yard height limitation*

In residential rear yards and side yards behind the main structure, the height limitation shall be eight (8) feet from ground level, not including the "rot board" placed along the ground.

(e) *Sight triangle*

No fence, wall, or hedge or any portion thereof shall be located in the sight triangle in accordance with Section 5.3.6 Sight Lines at Driveways and Intersections.

(f) *Surface drainage*

No fence or wall shall be constructed in such a manner as to impede the normal flow of surface drainage in accordance with the State Law and other Shenandoah requirements.

(g) *Safety*

On lots smaller than one (1) acre, no electrified fence or wall or any fence, broken glass, barbed wire or other materials reasonably calculated to do bodily harm shall be permitted.

(h) *Permit fee*

Refer to the adopted Zoning Ordinance Fee Schedule for fees.

5.2.4 *Sight-Proof Screening Requirements*

(a) *Construction screening prior to occupancy*

Where property within any zoning district is required to have sight-proof screening, no use or conversion of use shall be made of the property until the owner or occupant has erected sight-proof screening in conformance with the requirements of these Regulations. Such screening shall be 80% opaque and either green or black to blend in with the surroundings and shall be removed before occupancy.

(b) *Sight-proof screening between residential and commercial, industrial and office*

When a property zoned commercial, industrial, or office, lies adjacent to property zoned residential, the property owner or occupant must erect sight-proof screening along the side and rear property lines of the property prior to any commercial, industrial, or office use of the property.

(c) *Sight-proof fence plan*

All required sight-proof fencing shall be shown on the site plan accompanying the application for a building permit or remodeling permit.

(d) *Sight-proof landscaping plan*

A landscaping plan shall be submitted as part of the site plan submitted for a building permit when the applicant chooses to use evergreen vegetation or landscaped earth berms to meet screening requirements.

(e) *Sight-proof screening along local residential streets*

When property within an industrial zoning district is separated by a local residential street from a residential zoning district, no industrial use shall be made of the industrial property until the owner or occupant has erected sight-proof screening along the side or rear property lines or along the front building or property line provided that required sight triangles at access points and street intersections must not be encumbered. If there is any outdoor work, sales, display, or storage areas in the front yard, sight-proof screening shall be erected along the front property line.

(f) *Sight-proof screening between residential and arterial streets*

Sight-proof screening of residential developments is required where the development abuts an arterial street. In these cases, wood stockade fences shall be prohibited.

(g) *Sight-proof screening of outdoor storage*

Sight-proof screening of outdoor storage areas shall be required. No outdoor storage of materials, commodities or equipment may exceed the height of the sight-proof screening. Outdoor storage exceeding eight (8) feet shall require a Special Use Permit.

(h) *Additional Requirements*

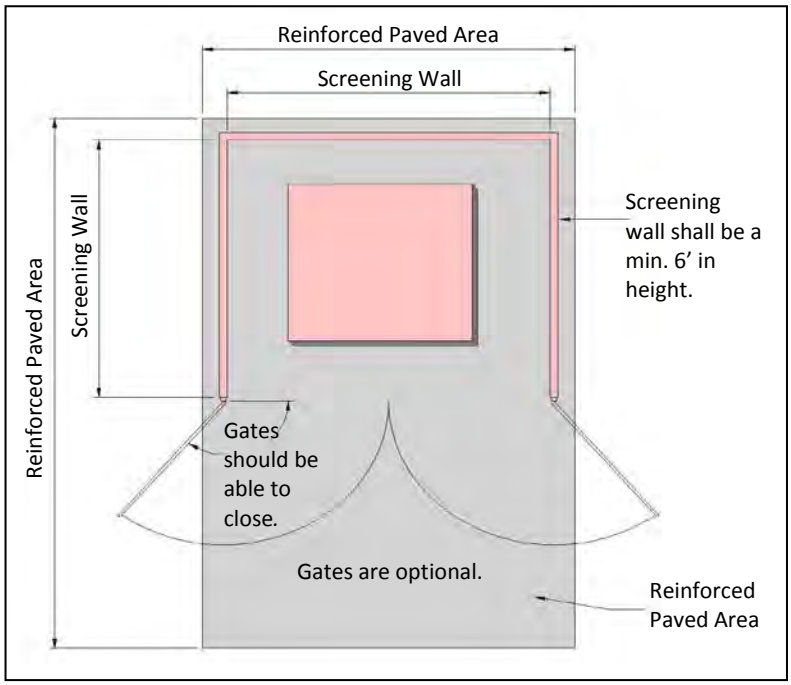
(1) Screening of outside equipment. All outside equipment such as air conditioners, pool equipment, satellite dishes over 36 inches high, etc., shall be screened from view from any adjacent street by a solid fence or dense shrubbery/landscaping.

(2) Screening through use of masonry walls, landscaping or appropriate combinations is required for all storage, service portals, garbage areas, and service driveways that are contiguous to other properties.

(3) Refuse areas which are not within a rear service area and which are visible from a public right-of-way for all non-residential, multi-family and manufactured/mobile home park uses shall be visually screened by a minimum six (6) foot solid wall or fence on at least three sides (see Illustration 5.2.4(h) for refuse container enclosure diagrams). The fourth side, which is to be used for garbage pickup service, may provide an optional gate to secure the refuse storage area. Alternate equivalent screening methods may be approved by the City. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per Illustration 5.2.4(h).

(4) Areas for retail sale of merchandise where the items are not adjacent to residential uses, behind the building line, do not use required parking, and are removed once every twenty-four (24) hours to a secure area are exempt from screening.

Illustration 5.2.4(h)
Refuse Area Screening



5.3 Parking, Loading, and Driveway Access

5.3.1 *General*

These regulations provide that adequate parking, loading, and maneuvering facilities will be a part of all land uses within the city. These regulations establish standards and review procedures intended to assure that the demand created by each land use will be satisfied by facilities that are functionally adequate and aesthetically pleasing.

(a) *Off-street parking required*

(1) Compliance

a. Permanent off-street parking in the amount specified by this section for each use shall be provided at the time any main building is enlarged or increased, or before conversion from one type of use to another that requires additional parking. This must be done in the amount required for the enlargement or increase in capacity by the adding of dwelling units, guest rooms, seats, or floor area.

(2) Parking lots

Off-street parking lots for more than six (6) vehicles shall comply with the following provisions:

a. All sides of a parking lot abutting a residential district shall conform to Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

b. Parking lots shall meet the provisions of The Fire Protection and Prevention Ordinances of the Shenandoah Code of Ordinances.

(b) *Use of public right-of-way prohibited*

(1) No portion of any required parking under these regulations shall occupy or use any public street, right-of-way, alley, or other public property.

(2) Parking spaces which use any street or public right-of-way as a direct means of access without the intermediate use of service aisles and entrances of at least the minimum standards specified by this section shall be prohibited.

(3) A public alley shall be the only public right-of-way area permitted for maneuvering space to reach a required parking stall.

(c) *Minimum standards and property owner responsibility*

The standards contained herein represent minimum requirements.

(1) It shall be the responsibility of the property owner to certify at the time he applies for a building permit that his plan will provide sufficient parking spaces and facilities to accommodate his use.

(2) Any use developed after the date of adoption of these regulations that fails to provide for its off-street parking, loading, and access needs according to this provision shall be in violation of this Zoning Ordinance.

(3) Upon determination by the Community Development Director or their designee that a property owner has not provided adequate parking or loading space pursuant to the requirements contained herein to serve his operation, said property owner shall be required to either develop additional parking or loading space or reduce the size of the operation to fit the space available.

(d) *Ownership or control*

The land on which the off-street parking or loading facility is located shall be owned or controlled by the same entity that owns or controls the land on which the principal use is located.

(e) *Approval procedure for off-street parking, loading, and access*

(1) New construction/enlargement/change of use.

a. No building permit shall be approved until a parking and loading plan has been reviewed and approved by the Community Development Director or their designee as a part of the building and site plan review process.

b. No certificate of occupancy shall be issued until all off-street parking and loading facilities have been constructed in accordance with the approved building permit.

(2) Plan and information required.

a. The applicant for a building permit of new construction, expansion, change in use resulting in an increase in this parking requirement or new striping arrangement of an existing parking area shall submit a plan (this may be a part of the site plan) showing the number, location, size, and type of parking spaces and circulation pattern.

b. The applicant shall submit information regarding the projected number of employees, seating capacities, gross floor area, gross leasable area, number of dwelling units, and any other appropriate data necessary to verify compliance with these regulations.

(3) Plans for surfacing of parking areas.

a. Plans for surfacing of all off-street parking areas, aisles, and access driveways, including detailed drainage plans, shall be reviewed and approved by the Community Development Director for compliance with city specifications.

(f) *Interpretation and appeal*

If questions of interpretation or application of these requirements to particular uses or structures arise, the Community Development Director or their designee shall, based on findings of fact, make a determination of the off-street parking, loading or access requirements. Any aggrieved property owner may appeal such determination to the Board.

5.3.2 *Off-Street Parking Standards*

(a) *Remote parking permitted*

The off-street parking lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley, except as otherwise provided herein.

(b) *Joint parking facilities*

The required parking space for any number of separate uses may be combined in a joint parking facility under the following conditions:

(1) Joint parking facilities permitted

a. Whenever two (2) or more uses are located together in a common building, shopping center, or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility cooperatively established and operated, which contains the requisite number of spaces for each use. Uses may be combined in accordance with Section 5.3.2(b)(1) Off-Street Parking Standards - Joint parking facilities permitted for parking calculations.

b. The joint parking facility shall be located within the required distance defined in Section 5.3.2 Off-Street Parking Standards subsection (a) Remote parking permitted and the joint parking lot shall not be separated by major streets as defined in the subdivision regulations.

c. The total number of spaces provided shall not be less than the sum of the individual requirements unless otherwise permitted in this section.

d. Spaces provided for permanent residents of dwellings shall be clearly designated and separated from spaces provided for employees, customers, and service.

(2) Multiple ownerships or structures.

a. Where there are multiple ownerships or structures, each owner shall provide evidence of a permanent legal instrument on a form provided by or acceptable to the city which guarantees the right to use of the parking facility with the city being a part of any creation or vacation of said agreement.

b. The owner shall notify the city any time such agreements are terminated or amended.

(c) *Shared Parking – Reduction of Required Spaces*

(1) Where it can be demonstrated before the Commission that parking for two (2) or more specific uses occurs at alternating time periods, and where the combined floor area of such uses occupies not less than 50,000 square feet, or where the aggregate required off-street parking for such uses would be at least two hundred (200) spaces, then the parking space requirements of the use requiring the greater number of spaces may be applied to and used by the other uses in a combined parking area. However, it shall be demonstrated with a parking study that such area will result in a reduction of at least ten percent (10%) of the aggregate required off-street parking for such uses (as a condition precedent to consideration of a shared parking area). Such parking study shall be in accordance established procedures, methods, and parking rations with established by the Institute of Traffic Engineers, Urban Land Institute and other reputable sources.

(2) Off Setting Peak Parking.

The Shared Parking provisions of this Section specify that parking space requirements within mixed-use occupancies may be reduced from specified requirements where it can be demonstrated with a parking study that the peak requirement of the several occupancies occur at different times (such as mid-day for office uses and evening for residential uses). Exceptions in the total number of spaces required by the addition of all uses as specified in this Article may be considered if supported by a parking demand study prepared by a qualified Community Development Director, and approved by the Commission. Appeals shall be made to the Council.

(3) Fee Schedule.

Consideration for shared parking and the determination thereof by City staff shall be at an additional fee at the time of application in accordance with the adopted fee schedule.

(4) Shared Use Calculation Without Parking Study

a. Uses that allow shared parking without a parking study based on the calculations in Table 3.5.2.(a) below are as follows:

1. Office (employees)
2. Retail
3. Restaurant (not fast food)
4. Theater
5. Hotel w/Conference Banquet

Table 5.3.2.(a) Parking Adjustment Percentages by Time of Day

Time of Day	Office	Retail	Restaurant	Theater	Hotel/Conference
6 am to 12 noon	1.00	0.95	0.40	0.35	0.95
12 noon to 1pm	0.90	1.00	0.75	0.60	0.95
1 pm to 4 pm	1.00	1.00	0.75	0.80	0.75
4 pm to 6pm	0.50	0.95	0.95	0.80	1.00
6 pm to 8 pm	0.10	0.80	1.00	1.00	1.00
8 pm to 12 am	0.03	0.65	1.00	1.00	1.00

b. Calculation of shared parking shall use the following process:

1. Determine minimum parking required for each use as though it were a separate use.
2. Multiply each amount by the corresponding percentage for each of the six (6) time periods in the columns above (Parking Adjustment Percentages).
3. Calculate column total for each time period.
4. The hourly total with the highest value is the parking requirement.

(5) Churches

a. Churches may establish joint parking facilities with public institutions and agencies that do not have a time conflict in parking demand. However, only fifty (50) percent of the required space may be provided this way.

b. The joint parking facility shall be located within four hundred (400) feet of the church sanctuary.

(6) Specific uses in shopping or office complexes.

a. The required parking spaces for the use units specifically listed below shall be permitted to be reduced by one-half (1/2), provided they are part of a shopping or office complex of one or more buildings totaling forty-eight thousand (48,000) square feet or more of gross leasable area and which share joint

access and parking facilities as described in Section 5.3.2 (b)(1) Joint parking facilities permitted and provided further that the gross leasable area of all of these uses listed below in the building or complex shall not exceed twenty (20) percent of the total gross leasable area of the building or complex.

b. Any gross leasable area in excess of said twenty (20) percent shall require parking spaces to be provided according to the regular standards contained herein. The use units subject to this provision are:

1. Section 4.4.27 Drinking Establishments.
2. Section 4.4.28 Eating Establishments: Fast Foods.
3. Section 4.4.30 Eating Establishments: Fast Foods, Alcoholic Beverages Permitted.
4. Section 4.4.31 Eating Establishments: Sit-Down, Alcoholic Beverages not Permitted.
5. Section 4.4.32 Eating Establishments: Sit-Down, Alcoholic Beverages Permitted.
6. Section 4.4.45 Participant Recreation and Entertainment: Indoor.
7. Section 4.4.46 Participant Recreation and Entertainment: Indoor, Alcoholic Beverages Permitted.
8. Section 4.4.59 Spectator Sports and Entertainment: Restricted.

(d) *Parking area construction and Residential Requirements*

(1) Paving

a. All off-street parking areas, aisles, and access driveways shall be permanently paved with an approved hard surface pavement.

b. All portions of access driveways on public right-of-way connected to paved streets for which the grade has been established must be permanently paved with hard-surfaced pavement and comply with all Shenandoah Codes relating to driveway construction.

c. Permanent hard surface pavement shall mean a surface covering over earth, gravel or other natural or artificial base or foundation that shall meet or exceed the following minimum standards.

1. Four (4) inches of Portland cement concrete; or
2. All portions of access driveways on public right-of-way: Six (6) inches of Portland cement concrete.

(2) Residential Parking and Restrictions and Construction

a. In all residential districts, no parking space, carport, automobile storage space or structure shall be used for the storage of any truck, bus, or non-passenger and/ or delivery or van that exceeds 20 feet in length. However, a panel or pickup truck not exceeding one and one-half (1-1/2) tons capacity or a recreational vehicle, travel trailer, pickup with camper or boat not exceeding thirty five (35) feet in length may be stored off-street, provided such vehicle storage does not extend or encroach into the right-of-way. A recreational vehicle exceeding thirty-five feet in length may be stored in a side or rear yard behind a six (6) foot solid screening fence or temporarily parked in front or outside a screening fence for up to 72 hours in a one-month period provided it does not block a sidewalk or easement. All vehicles being stored in a residential area must have a current license and inspection sticker.

b. It shall be illegal for any person to park or to allow to be parked on any property under their control any automobile, truck, motorcycle, motor home, camper, trailer, boat or any vehicle on any portion of a front, side or rear yard of any area which is zoned or used for residential purposes unless one of the following is complied with:

1. The area is part of a hard surfaced driveway or parking area and is entirely paved with a hard surface defined as concrete, or
2. Non-required parking for extra vehicle storage may be placed on a space or spaces paved entirely with brick or cement pavers accessed by a paved surface or
3. The area is part of a side or rear yard which is enclosed by a screening fence at least six (6) feet in height and so constructed that no person can see through into the area surrounded by the fence. No more than two vehicles of any kind may be stored in such an enclosed area.

c. A hard surfaced driveway for residential off-street parking for single-family detached development or a single-family detached dwelling unit may be authorized by the Community Development Director to be constructed of asphalt only if the property for which the asphalt paving is proposed is:

1. Accessed from an asphalt paved street, and more than 50% percent of the driveways for lots facing said asphalt paved street, as measured between two intersecting streets, are paved with a hard, dust free surface other than concrete.
2. Accessed from a driveway longer than 100 feet measured from the right-of-way line to the parking space in which case the parking area as well as the driveway may be made from asphalt.
3. Asphalt driveways and parking areas that meet this criteria shall be at least eight (8) feet wide with two (2) inches of hot asphaltic concrete or double bituminous seal on a four (4) inch base of stabilized aggregate or the equivalent thereto, which has been approved by the Community Development Director.

d. An exception may be allowed by the Community Development Director for an entire driveway and parking area to be constructed of stone pavers or brick where it is equal to or better quality than a concrete drive and part of a unified architectural design.

(3) Striping

a. Off-street parking areas shall be designed to provide systematic and orderly circulation, traffic separation devices, and parking spaces in accordance with this section and with sound traffic engineering practices.

b. All off-street parking spaces and means of ingress and egress shall be laid out on the parking surface with paint or plastic striping that provide a permanent delineation between spaces, aisles, and surrounding structures and land.

c. No striping shall be required on lots having only single-family detached, two family attached, or town house residential structures.

(4) Separation of parking from public right-of-way

a. All off-street parking areas, aisles, and maneuvering areas that abut public street right-of-way shall be separated by a six (6) inch Portland cement concrete header curb, bumper or landscape timbers and shall be designed so that vehicles do not overhang public rights-of-way or adjacent property.

b. The right-of-way shall not be paved or used as a parking lot and all areas exclusive of sidewalks and driveways shall be landscaped in accordance with Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance).

(5) Lighting

a. Refer to Section 5.17 Outdoor Lighting and Glare Prevention.

(6) Clearance

a. There shall be a minimum vertical clearance free of all obstructions to a height of eight (8) feet for all portions of any off-street parking space, except when off-street parking spaces are provided in a parking structure, a residential garage or carport. No obstruction shall project into this minimum clearance.

b. There shall be no obstruction within or near the bounds of any required off-street parking space that would interfere with the normal availability and use thereof.

(e) *Handicapped parking*

Handicapped parking spaces shall be provided in accordance with Table 5.3.2.(b) Required Number of Handicapped Parking Spaces for construction of new buildings (this includes additions to existing buildings). Section 5.3.2.(e)(1) Handicapped parking space design and Section 5.3.2.(e)(2) Handicapped curb ramp design shall be used the design of handicapped spaces and curb ramps for sidewalks. Said spaces shall be included in the computation of required spaces as specified by this section.

Table 5.3.2.(b)

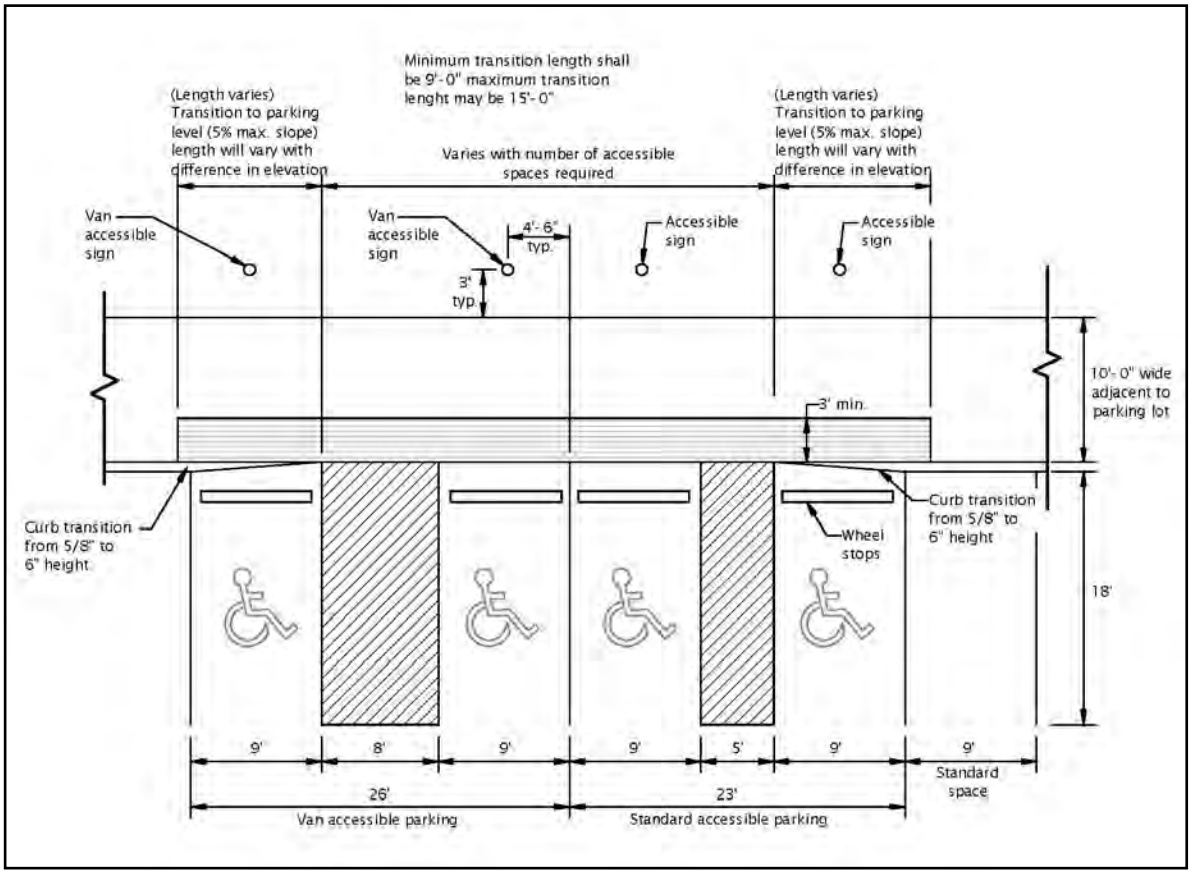
Required Number of Handicapped Parking Spaces

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

(1) Handicapped parking space design

Handicapped parking spaces shall be designed according to Illustration 5.3.2.(a) or an approved Texas Department of Transportation design.

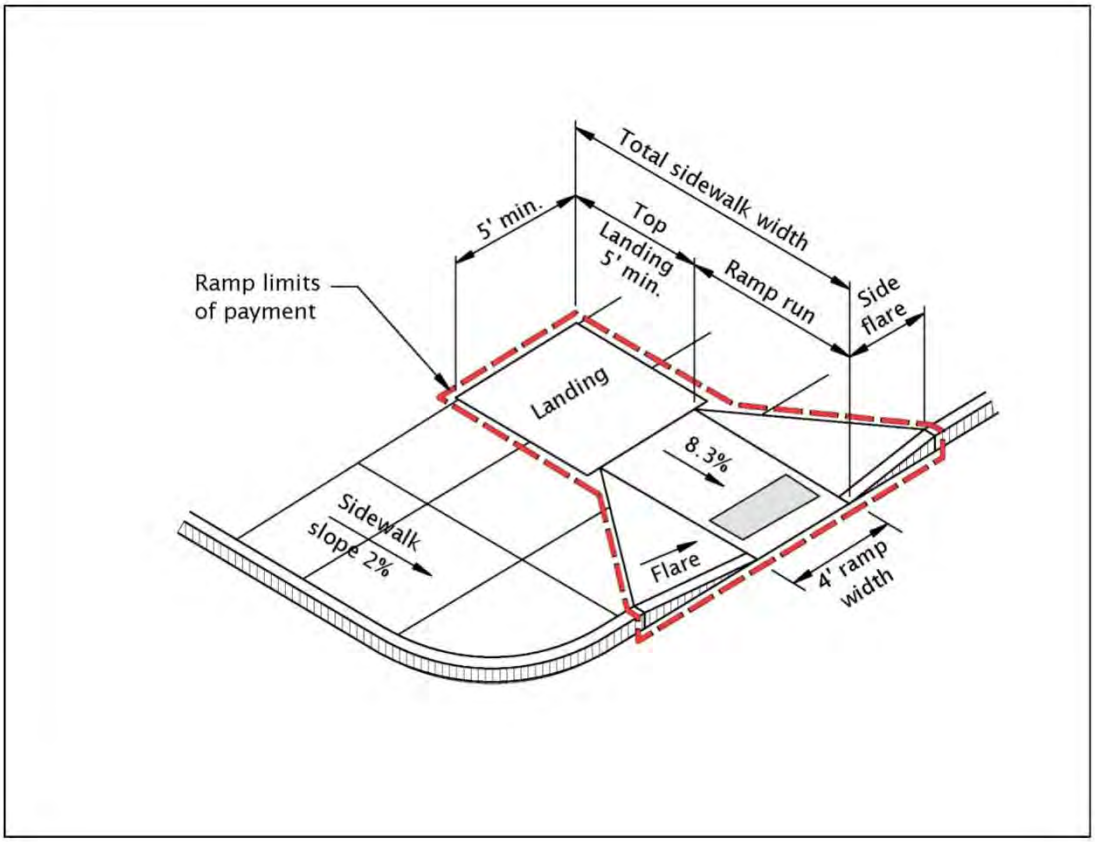
Illustration 5.3.2.(a)
Handicapped Parking Space Design



(2) Handicapped curb ramp design

Handicapped curb ramps shall be designed according to Illustration 5.3.2.(b) or an approved Texas Department of Transportation design.

Illustration 5.3.2.(b)
Handicapped Curb Ramp Design



(f) *Table 5.3.2.(c) Specific Parking Requirements*

Unless otherwise noted, the specific minimum parking requirement for each use is listed in Table 5.3.2.(c) Specific Parking Requirements. In cases where a use unit has no specific standard determined in advance by these regulations, the Community Development Director or their designee shall make a determination of need after review of the site plan. Any disagreements with the decision of the Community Development Director or their designee or their designee may be appealed to the Board.

Table 5.3.2.(c)		
Specific Minimum Parking Requirements		
Use Unit		**Parking Standard**
Section 4.2: Residential Use Unit		
4.2.1 Single-Family Detached Residential		2 non-stacked* spaces per dwelling unit exclusive of parking in the garage
4.2.2 Two Family Attached Residential (Duplexes)		2 non-stacked* spaces per dwelling unit exclusive of parking in the garage
4.2.3 Townhouse (Single-Family Attached)		2 non-stacked* spaces per dwelling unit exclusive of parking in the garage
4.2.4 Multifamily Residential		More than 120 dwelling units requires a second means of ingress and egress to the residential complex
	Efficiency and 1 Bedroom	1.5 spaces per dwelling unit
	Two or More Bedrooms	2 spaces per dwelling unit
4.2.5 Manufactured Home Residential (HUD code)		2 spaces per dwelling unit
4.2.6 Industrialized Home Residential (Prefabricated or Modular Home)		2 spaces per dwelling unit
4.2.7 Mobile Home		2 spaces per dwelling unit
4.2.8 Group Residential		Community Development Director Approval**
4.2.9 Home Occupation		1 space per dwelling unit plus primary use parking
4.2.10 Garage Apartment Attached/Unattached		1 space per dwelling unit plus primary use parking
* "Non-Stacked" is defined as two parking spaces, one of which is not behind the other requiring a vehicle to be moved to utilize the other.		
Section 4.3: Public and Quasi-Public Use Units		
4.3.1 Public Service or Utility: Light		Community Development Director Approval**
4.3.2 Public Service or Utility: Moderate		Community Development Director Approval**
4.3.3 Public Service or Utility: Heavy		Community Development Director Approval**
4.3.4 Sanitary Landfill		Community Development Director Approval**
4.3.5 Hazardous Waste Disposal		Community Development Director Approval**
4.3.6 Low Impact Institutional: Neighborhood Related		
	Elementary School	1 space per 10 classroom seats
	Churches, Temples, Synagogues	1 space per 3 seats in the major place of assembly
4.3.7 Moderate Impact Institutional		
	Junior High Schools	1 space per 10 classroom seats
	High Schools	1 space per 4 classroom seats
	Vocational Schools	1 space per 2 classroom seats
	Fraternal Organizations	1 space per 100 square feet of floor area used for assembly or recreation
4.3.8 High Impact Institutional		
	General College and University	1 space per 4 classroom seats
	Hospitals and Sanitariums	2 spaces per bed + 1 space per 500 square feet GFA of emergency room and outpatient care (where such care is specifically provided)

Table 5.3.2.(c)		
Specific Minimum Parking Requirements		
Use Unit		**Parking Standard**
4.3.9 Cultural Exhibits		1 space per 400 square feet GFA
4.3.10 Library Services and Community Centers		
	Libraries	1 space per 300 square feet GFA
	Community Centers	1 space per 300 square feet GFA
4.3.11 Community Recreation: Restricted		
	Golf Course	5 spaces per green + 1 space per 200 square feet GFA of public building area
	Swim Centers	1 space per 150 square feet of pool surface area and accessory area
	Game Courts: Tennis, Squash, Racquetball, Handball	5 spaces per court
	Playgrounds, Playfield, Public Park	Community Development Director Approval**
4.3.12 Community Recreation: General		
	Golf Courses	5 spaces per green
	Clubhouses	1 space per 100 square feet GFA
	Swim Centers	1 space per 150 square feet of pool area
	Game Courts: Tennis, Squash, Racquetball, Handball	5 spaces per court
	Playgrounds, Playfields, Marina, Boat Dock, Public Park	Community Development Director Approval**
4.3.13 Community Recreation: Property Owners' Association		
	Clubhouse	1 space per 300 square feet GFA
	Game Courts: Tennis, Squash, Racquetball, Handball	2 spaces per court
	Swimming Pool	1 space per 300 square feet of pool area
	Playgrounds	Community Development Director Approval**
4.3.14 Group		Community Development Director Approval**
4.3.16 Community-Based Care Facility		Community Development Director Approval**
4.3.17 Wind Energy Conversion Systems (WECS)		None
Section 4.4: Commercial Use Units		
4.4.1 Administrative, Financial, and Professional Office		See Table 5.3.2.(d), Office
4.4.2 Adult Entertainment Enterprise		See Table 5.3.2.(d), Retail (Also see Exhibit 10.3)
4.4.3 Agricultural Supplies and Services		See Table 5.3.2.(d), Retail
4.4.4 Alcoholic Beverage Retail Sales		See Table 5.3.2.(d), Retail
4.4.5 Animal Sales and Services: Auctioning		See Table 5.3.2.(d), Retail
4.4.6 Animals: Grooming and Sales		See Table 5.3.2.(d), Retail
4.4.7 Animal Sales and Services: Horse Stables		Community Development Director Approval**
4.4.8 Animal Sales and Services: Kennels and Veterinary, Restricted		See Table 5.3.2.(d), Retail
4.4.9 Animal Sales and Services: Kennels and Veterinary, General		See Table 5.3.2.(d),Retail
4.4.10 Automotive Equipment and Repairs: Light		1 space per 150 square feet GFA; 5 spaces minimum (Interior bays may be counted in meeting this requirement)
4.4.11 Automotive Equipment and Repairs: Heavy		1 space per 150 square feet GFA; 5 spaces minimum (Interior bays may be counted in meeting this requirement)
4.4.12 Automotive Sales and Rentals: Light		See Table 5.3.2.(d),Retail
	For Outside Lot	1 space per 5,000 square feet

Table 5.3.2.(c)		
Specific Minimum Parking Requirements		
Use Unit		**Parking Standard**
	For Service Area and Body Shop	See Section 4.4.13 Automotive and Equipment Sales and Rentals: Heavy
4.4.13 Automotive and Equipment Sales and Rentals: Heavy		
	For Showroom Area	See Table 5.3.2.(d), Retail
	For Outside Lot	1 space per 5,000 square feet
	For Service Area and Body Shop	See Section 4.4.13 Automotive and Equipment Sales and Rentals: Heavy
4.4.14 Automotive and Equipment: Storage		Community Development Director Approval**
4.4.15 Building Maintenance Services		See Table 5.3.2.(d), Retail
4.4.16 Business Support Services		See Table 5.3.2.(d), Office
4.4.17 Childcare Center and Adult Day Care Center		
	Childcare Center	1 space per 10 children enrolled + 1 space per 2 employees and 1 space per vehicle used in the operation of the center
	Adult Day Care Center	A base of 3 parking spaces for staff + 2 spaces for the first 8 participants, plus an additional 1 space per each additional 8 participants over the first 8 shall be required.
4.4.18 Childcare – Registered Family Home		1 space in addition to the required parking for the primary use
4.4.19 Commercial Sales and Services: Least Restrictive General		See Table 5.3.2.(d), Office
4.4.20 Commercial Sales and Services: Least Restrictive		See Table 5.3.2.(d), Office
4.4.21 Communications Services: Limited		See Table 5.3.2.(d), Office
4.4.22 Communication Services: Towers/Antennas		Not Applicable
4.4.23 Construction Sales and Services		
	For Showroom Area	See Table 5.3.2.(d), Retail
	For Outside Lot	See Table 5.3.2.(d), Warehousing (substitute lot area for GFA)
4.4.24 Contractor Office/Shop/Sales: Limited (No outside storage or display)		See Section 4.4.23 above
4.4.25 Contractor Office/Shop/Sales: General		See Section 4.4.23 above
4.4.26 Convenience Sales and Personal Services		See Table 5.3.2.(d), Retail
4.4.27 Drinking Establishments		A minimum of 12 spaces plus 1 space per 100 square feet GFA
4.4.28 Eating Establishments: Drive-In		A minimum of 12 spaces plus 1 space per 100 square feet GFA, excluding cold storage
4.4.29 Eating Establishments: Fast Foods		A minimum of 12 spaces plus 1 space per 100 square feet GFA, excluding cold storage
4.4.30 Eating Establishments: Fast Foods, Alcoholic Beverages Permitted		A minimum of 12 spaces plus 1 space per 100 square feet GFA, excluding cold storage
4.4.31Eating Establishments: Sit-Down, Alcoholic Beverages not Permitted		1 space per 100 square feet GFA
4.4.32 Eating Establishments: Sit-Down, Alcoholic Beverages Permitted		1 space per 100 square feet GFA
4.4.33 Food and Beverage Retail Sales		See Table 5.3.2.(d), Retail
4.4.34 Funeral and Interment Services: Animals		1 space per four seats in chapel and 1 space per 300 square feet of non-assembly area within building
4.4.35 Funeral and Interment Services: Burial		1 space per four seats in chapel and 1 space per 300 square feet of non-assembly area within building

Table 5.3.2.(c)		
Specific Minimum Parking Requirements		
Use Unit		**Parking Standard**
4.4.36 Funeral and Interment Services: Cremating		1 space per four seats in chapel and 1 space per 300 square feet of non-assembly area within building
4.4.37 Funeral and Interment Services: Undertaking		1 space per four seats in chapel and 1 space per 300 square feet of non-assembly area within building
4.4.38 Gasoline Sales: Restricted		See Table 5.3.2.(d), Retail (for spaces in addition to adequate queuing and access space)
4.4.39 Gasoline Sales: General		Community Development Director Approval**
4.4.40 Health Clubs		See Table 5.3.2.(d), Retail
4.4.41 Laundry Services		See Table 5.3.2.(d), Retail
4.4.42 Manufactured Housing and Travel Trailers: Sales and Rentals		
	For Showroom Area	See Table 5.3.2.(d), Retail
	For Outside Lot	See Table 5.3.2.(d), Warehousing (substitute lot area for GFA)
	For Service Area and Body Shop	See Table 5.3.2.(d), Industrial and Manufacturing
4.4.43 Medical Services: Restricted		The greater of either 7 spaces per doctor on duty and 2 spaces per 3 employees or that which is required in Table 5.3.2.(d), Office
4.4.44 Medical Services: General		The greater of either 7 spaces per doctor on duty and 2 spaces per 3 employees or that which is required in Table 5.3.2.(d), Retail
4.4.45 Participant Recreation and Entertainment: Indoor		
	Bowling Alleys	5 spaces per lane
	Billiard Parlors	See Table 5.3.2.(d), Retail
	Dance Halls	1 space per 50 square feet of club area and 1 space per 100 square feet of remaining GFA
	Skating Rinks	Community Development Director Approval**
	Arcades	See Table 5.3.2.(d), Retail
	Theatres	1 space per 3 seats
4.4.46 Participant Recreation and Entertainment: Indoor, Alcoholic Beverages Permitted		Same as requirement for Section 4.4.45
4.4.47 Participant Recreation and Entertainment: Outdoor		
	Driving Range	Community Development Director Approval**
	Miniature Golf	2 spaces per 3 holes
	Go-Cart Tracks	Community Development Director Approval**
	Drive-in Theatre	6 spaces minimum + adequate spaces for viewing
	Amusement Park	Community Development Director Approval**
4.4.48 Personal Services: Restricted		See Table 5.3.2.(d), Office
4.4.49 Personal Services: General:		See Table 5.3.2.(d), Office
4.4.50 Personal Services: Least Restrictive		
4.4.51 Personal Storage		1 space per 5,000 square feet of storage area
4.4.52 Repair Services: Consumer		See Table 5.3.2.(d), Retail
4.4.53 Research Services		See Table 5.3.2.(d), Office
4.4.54 Retail Sales and Services: Restricted		See Table 5.3.2.(d), Retail
4.4.55 Retail Sales and Services: General		See Table 5.3.2.(d), Retail
4.4.56 Retail Sales and Services: Least Restrictive		See Table 5.3.2.(d), Retail
4.4.57 Retail Sales and Services: Outdoor Swap Meets		Community Development Director Approval**
4.4.58 Sign: Non-Accessory		Not Applicable
4.4.59 Spectator Sports and Entertainment: Restricted		Community Development Director Approval**

Table 5.3.2.(c)	
Specific Minimum Parking Requirements	
Use Unit	**Parking Standard**
4.4.60 Spectator Sports and Entertainment: General	Community Development Director Approval**
4.4.61 Spectator Sports and Entertainment: High Impact	Community Development Director Approval**
4.4.62 Tourist Accommodations: Campground	Community Development Director Approval**
4.4.63 Tourist Accommodations: Lodging - Restricted	1 space per rental + 1 space per 200 square feet GFA of restaurant area (including kitchen) + 1 space per 100 square feet GFA of club area (excluding office and meeting rooms) + 1 space per 200 square feet for any retail area
4.4.64 Tourist Accommodations: Lodging - General	See Section 4.4.63 above
Section 4.5: Industrial Use Units	
4.5.1 Custom Manufacturing	See Table 5.3.2.(d)), Manufacturing and Industrial
4.5.2 Light Industrial: Restricted	See Table 5.3.2.(d), Manufacturing and Industrial
4.5.3 Light Industrial	See Table 5.3.2.(d), Manufacturing and Industrial
4.5.4 Moderate Industrial	See Table 5.3.2.(d), Manufacturing and Industrial
4.5.5 Heavy Industrial	See Table 5.3.2.(d), Manufacturing and Industrial
4.5.6 Hazardous Industrial	See Table 5.3.2.(d), Manufacturing and Industrial
4.5.7 Scrap Operations	1 space per 15,000 square feet of outdoor storage area
4.5.8 Wholesaling, Storage and Distribution: Restricted	See Table 5.3.2.(d),Warehousing
4.5.9 Wholesaling, Storage and Distribution: General	See Table 5.3.2.(d), Warehousing (substitute total site area for GFA)
Section 4.6: Transportation Use Units	
4.6.1 Transportation Facilities: Passenger	Community Development Director Approval**
4.6.2 Transportation Facilities: Freight, Restricted	See Table 5.3.2.(d), Warehouse + supplementary parking for tractors and trailers as needed
4.6.3 Transportation Facilities: Freight, General	Community Development Director Approval**
4.6.4 Transportation Facilities: Aircraft	Community Development Director Approval**
Section 4.7: Agricultural Use Units	
4.7.1 Agricultural Processing: Limited	Community Development Director Approval**
4.7.2 Agricultural Processing: General	Community Development Director Approval**
4.7.3 Animal Raising: Personal	Community Development Director Approval**
4.7.4 Animal Raising: Commercial	Community Development Director Approval**
4.7.5 Animal Waste Processing	Community Development Director Approval**
4.7.6 Horticulture	See Table 5.3.2.(d), Retail, for building area (exclusive of Greenhouse) for Greenhouse, See Table 5.3.2.(d), Warehouse
4.7.7 Row and Field Crops	Community Development Director Approval**
Section 4.8: Extractive Use Units	
4.8.1 Mining and Processing: Minerals and Raw Materials	3 spaces per employee on largest shift
4.8.2 Mining and Processing: Oil and Gas	3 spaces per employee on largest shift

**The Community Development Director shall require a special parking study of these unique uses and determine the required parking based on the number of employees, visitors and/or residents. On more complicated studies, the Director may require the use of the parking ratios and calculations from a reputable source such as the Institute of Traffic Engineers.

(g) *Table 5.3.2.(d) Minimum Parking Standards for Retail, Office, Manufacturing and Industrial, and Warehousing*

The following parking standards apply to retail, office, manufacturing and industrial and warehousing uses.

Table 5.3.2.(d)	
Minimum Parking Standards for Retail, Office, Manufacturing and Industrial, and Warehousing	
GLA = Gross Leasable Area / GFA = Gross Floor Area	
Area Size	**Standard**
Retail	
For the first-- 5,000 Sq. Ft. GLA	1 Space/150 Sq. Ft. GLA
From 5,001-- 12,000 Sq. Ft. GLA	1 Space/200 Sq. Ft. GLA
From 12,000-- 30,000 Sq. Ft. GLA	1 Space/225 Sq. Ft. GLA
From 30,001-- 50,000 Sq. Ft. GLA	1 Space/250 Sq. Ft. GLA
Over 50,000 Sq. Ft. GLA	1 Space/300 Sq. Ft. GLA
Office	
For the first-- 12,000 Sq. Ft. GLA	1 Space/250 Sq. Ft. GLA
From 12,001-- 48,000 Sq. Ft. GLA	1 Space/300 Sq. Ft. GLA
Over 48,000 Sq. Ft. GLA	1 Space/350 Sq. Ft. GLA
Manufacturing and Industrial	
For the first-- 20,000 Sq. Ft. GFA	1 Space/500 Sq. Ft. GFA
Over 20,000 Sq. Ft. GFA	1 Space/1000 Sq. Ft. GFA
Warehousing	
For the first-- 20,000 Sq. Ft. GFA	1 Space/1000 Sq. Ft. GFA
Over 20,000 Sq. Ft. GFA	1 Space/5000 Sq. Ft. GFA

(1) For mixed uses containing any combination of retail, office, manufacturing and industrial, or warehousing activity, parking requirements shall be tabulated separately for each use within the development using the list of specific standards or Table 5.3.2.(d) Minimum Parking Standards for Retail, Office, Manufacturing and Industrial, and Warehousing. When types of uses are not known at the time of development, then the Community Development Director or their designee shall make the determination as to the type of parking, i.e., retail, which will be required. Mixed uses regulated under separate parking requirements may be combined to achieve a larger square footage total that would result in a reduced parking requirement if they share or have joint use of parking facilities.

(2) At the time of site plan or permit approval, a schedule of the proposed uses and the

required parking for each use shall be incorporated into or attached to the site plan document by the applicant. If the schedule is amended during the approval process, such changes shall be incorporated into the final document.

(3) Where any part of a mixed use or a multiple occupancy complex is converted to another use category then the parking requirements shall be recalculated based on the new square footage figure. The owner/applicant may be required to provide a parking study/schedule demonstrating that the parking provided and the parking requirement of the existing uses plus the proposed use meet these Regulations.

(4) Where a manufacturing and industrial use has more than one working shift of employees, parking facilities shall be adequate to accommodate overlap requirements during transition periods.

(5) Where a multiple purpose retail or industrial building is proposed to be occupied by a use which can be demonstrated by the occupant to require less parking than the standards contained herein, the Community Development Director or their designee may permit paving of a smaller parking area to meet the estimated need; provided, however, that the balance of the land required by these regulations shall be held in reserve as an unpaved area to meet future needs generated by an expansion of the business or a change in land use.

(h) *Table 5.3.2.(e) Typical Parking Dimensions in Feet*

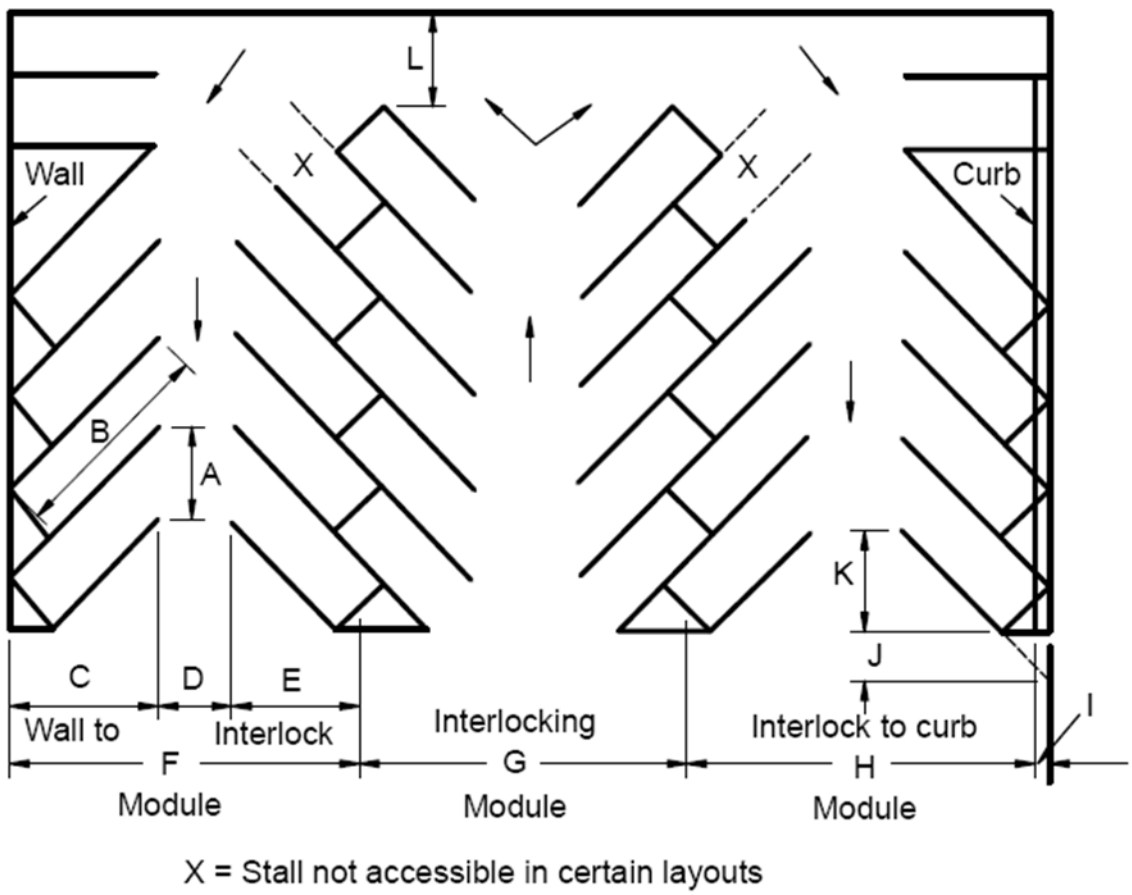
Typical Parking Dimensions in Feet and Illustration 5.3.2(b) shall be used in conjunction with each other.

Table 5.3.2.(e)													
Typical Parking Dimensions in Feet													
Module	**A***	**B***	**C***	**D***	**E***	**F***	**G***	**H***	**I***	**J***	**K***	**L1***	**L2***
Stall Width	Stall Width Parallel to Aisle	Stall Length of Line	Stall Depth to Wall	Aisle Width**	Stall Depth to Interlock	Wall to Wall	Interlock to Interlock	Interlock to Curb	Bumper Overhang	Offset	Setback	Cross Aisle One Way	Cross Aisle Two Way
45° Parking Angle													
9.0-ft stall	12.7	25.0	17.5	12.0	15.3	47.0	43.0	42.8	2.0	6.3	11.0	14.0	24.0
9.5-ft stall	13.4	25.0	17.5	11.0	15.3	46.0	42.0	41.8	2.0	6.3	11.0	14.0	24.0
60° Parking Angle													
9.0-ft stall	10.4	22.0	19.0	16.0	17.5	54.0	51.0	50.2	2.3	2.7	8.3	14.0	24.0
9.5-ft stall	11.0	22.0	19.0	15.0	17.5	43.0	50.0	49.2	2.3	2.7	8.3	14.0	24.0
75° Parking Angle													
9.0-ft stall	9.3	20.0	19.5	23.0	18.8	62.0	61.0	58.8	2.5	0.5	5.0	14.0	24.0
9.5-ft stall	9.8	20.0	19.5	22.0	18.8	61.0	60.0	57.8	2.5	0.5	5.0	14.0	24.0
90° Parking Angle													
9.0-ft stall	9.0	18.5	18.5	26.0	18.5	63.0	63.0	60.5	2.5	0.0	0.0	14.0	24.0
9.5-ft stall	9.5	18.5	18.5	25.0	18.5	62.0	62.0	59.5	2.5	0.0	0.0	14.0	24.0
0° Parallel													
9.0-ft stall	23.0	9.0	9.0	14.0	-	32.0	-						
9.5-ft stall	23.0	9.5	9.5	14.0	-	34.0	-						

*Letter references Illustration 5.3.2.(g)

**Two way aisles shall be a minimum of 24 feet of width or whatever is required above, whichever is greater.

Illustration 5.3.2(c)
Typical Parking Layout*



*Dimensioning letters reference column heading in Table 5.3.2.(g)

(i) *Parking area design standards*

(1) Basic design standards

a. The basic parking stall shall be nine (9) feet in width and 18.5 feet in length.

b. The minimum design standards for the basic parking stall as well as the dimensions to be followed if the optional parking stall size of 9.0 or 9.5 feet is used are shown in Table 5.3.2.(e) Typical Parking Dimensions in Feet.

c. Nothing in these standards shall prohibit an owner/applicant from providing larger aisle widths or stall dimensions in excess of these minimum standards in order to better suit their development requirements.

(2) Alternate design standard. While Table 5.3.2.(e) Typical Parking Dimensions in Feet has design standards for angles of 0°, 45°, 60°, 75°, and 90°, the Community Development Director or their designee shall be permitted to approve an alternate design using different angles, provided the property owner submits such a design with calculations for stalls and aisles based upon the standards contained herein.

(j) *Queuing spaces*

The Community Development Director or their designee may require queuing spaces for any drive through establishment including restaurants, gas stations or convenience stores. Where queuing spaces are provided, they shall conform to the following standards:

(1) No queuing space may occupy any portion of a public right-of-way.

(2) Queuing spaces shall be a minimum of nine (9) feet in width and eighteen (18) feet in length.

(3) Queuing spaces may not be used to satisfy the off-street parking or loading requirements of this section.

(4) Queuing spaces may be provided in the primary access aisle leading to a drive-in or drive-through facility.

(k) *Aisle standards*

(1) Aisles providing access to off-street parking areas, but not immediately adjacent to or providing direct access to an off-street parking space, shall be at least twenty-four (24) feet in width if designed for two-way traffic and at least fourteen (14) feet in width if designed for one-way traffic.

(2) Aisles located immediately adjacent to buildings or structures shall be separated by one of the following methods:

a. A planted or landscaped strip not less than two (2) feet in width, excluding curb, protected by a six (6) inch concrete curb;

b. A sidewalk of not less than four (4) feet in width, excluding curb, protected by a six (6) inch concrete curb;

c. A twenty-four (24) inch aisle guardrail which shall be standard Texas Department of Transportation guardrail with type I or IA terminal (metal end sections) on wooden posts eight (8) feet, four (4) inches on centers, or provide plans and specifications which will provide sufficient information for an alternatively designed guardrail to be approved by the Community Development Director. This shall apply only to aisles constructed after the adoption of these Regulations.

(3) Parking may be located immediately adjacent to buildings or structures without a planted or landscaped strip or a sidewalk or without a bumper guard.

A drive-in window shall not project more than one (1) foot into an aisle.

5.3.3 *Off-Street Loading*

(a) *Off-street loading space required*

Every new industrial, commercial, office and civic building hereafter erected or expanded shall provide space, as indicated herein, for loading and unloading of vehicles for goods and services. The number of off-street loading spaces required by this section shall be considered as the absolute minimum, and the owner/applicant shall evaluate his own needs to determine if they are greater than the minimum specified by this section.

(b) *Size of off-street loading spaces*

All off-street loading spaces shall have the minimum dimensions of twelve (12) feet by sixty (60) feet and fifteen (15) feet overhead clearance. In no case shall required off-street loading space encroach upon off-street parking space required under these Regulations, or on public right-of-way. No maneuvering shall be permitted on public right-of-way.

(c) *Number of off-street loading spaces required*

The number of required loading spaces required by use category according to floor area are shown in Table 5.3.3.(a) Minimum Number of Required Off-Street Loading Spaces.

Table 5.3.3(a)

Minimum Number of Required Off-Street Loading Spaces

Gross Floor Area	Total Minimum Number of Berths Required
Retail	
0 - 12,000 Sq. Ft.	0
12,001- 48,000 Sq. Ft.	1
48,001 Sq. Ft. and over	2
Commercial, Industrial, Office and Civic	
0 - 48,000 Sq. Ft.	0
48,001- 100,000 Sq. Ft.	1
100,001 Sq. Ft. and over	2

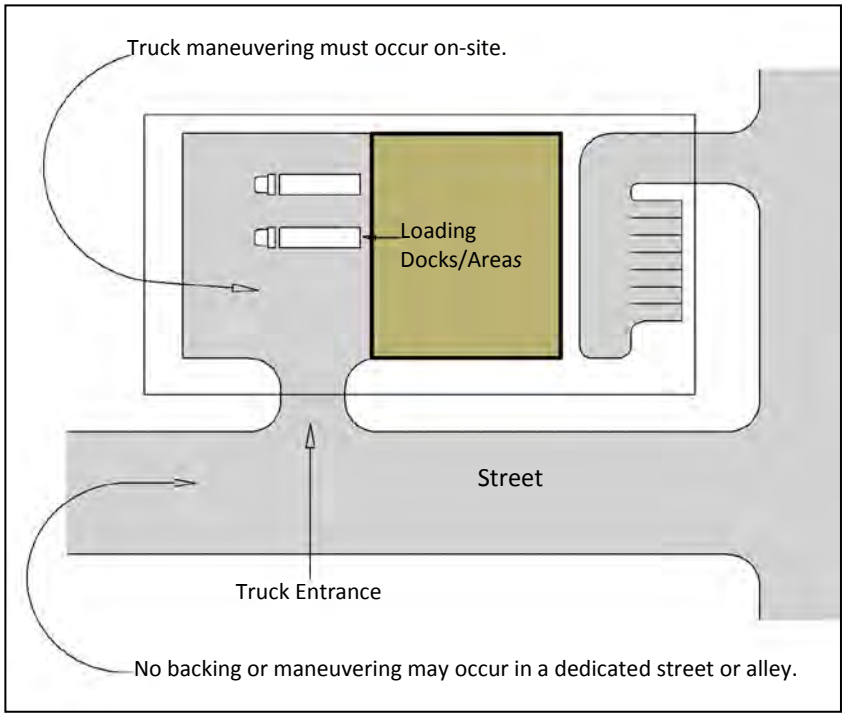
(d) *Design of loading space*

(1) Maneuvering. Off-street loading spaces shall be designed so that vehicles shall maneuver entirely within the property lines of the premises and not on public right-of-way. Unenclosed off-street loading areas shall be permanently paved with hard surfaced pavement. A six (6) inch header curb must also be constructed to separate a loading area from public right-of-way.

(2) Location and screening. Off-street loading spaces shall be positioned such that they do not face onto and are not visible from any major arterial. Loading areas should generally be located to the rear of non-residential buildings. Service doors or bays shall be placed to the side or rear of the structure. If loading areas are adjacent to residential uses, then they should be screened.

(3) Distance. Loading area shall be set back fifty (50) feet from an arterial street.

Illustration 5.3.3(a)
Truck Maneuvering Related to Loading Areas



5.3.4 *Mutual/Cross Access Easements Connectivity*

(a) *Dedication Required*

Dedication of a mutual access easement may be required to provide cross access of adjacent property or a shared use driveway to conform to the minimum driveway standards established in these Regulations, Section 22.9.3 Shared Driveways and Cross-Access Drives contained in the Subdivision Regulations, all other City ordinances and by the adopted Thoroughfare Plan. Examples of cross access easements may be found in Illustration 7.4.3.b, Sample of Connectivity and Shared Access in Section 7.4 Mixed Use Overlay District Approval and Specific Regulations.

(b) *Median Access*

Cross access easements may be required of development along divided thoroughfares to provide future access to median openings and shall be in accordance with Section 22.9.3 Shared Driveways and Cross-Access Drives contained in the Subdivision Regulations.

(c) *Minimum Width*

The minimum width of the access easement shall be 24 feet.

(d) *Dedication Procedure*

Dedication or granting of the mutual/cross access easement shall be in accordance with Section 22.9.3 Shared Driveways and Cross-Access Drives contained in the Subdivision Regulations. Dedication by instrument is acceptable but the City will require when platting is involved that the recorded document is referenced and shown on the plat.

5.3.5 *Driveway Approaches and Related Requirements*

Table 5.3.5 (a)

Dimension Designation		Residential Min/Max	Industrial Min/Max	Commercial Min/Max
A	**Driveway Throat Width[1]**			
	Local	10/24 ft	30/40 ft	24/30 ft
	Collector	15/28 ft	30/40 ft	24/30 ft
	Minor Arterial [6]	15/28 ft	30/40 ft	24/30 ft
	Major Arterial [3,6]	15/28 ft	30/40 ft	24/30 ft
	Driveway Curb Radius[1]			
	Local	5/10 ft	10/30 ft	10/30 ft
	Collector	5/10 ft	20/30 ft	20/30 ft
	Minor Arterial [6]	20/30 ft	20/30 ft	20/30 ft
	Major Arterial [3,6]	20/30 ft	20/30 ft	20/30 ft
B	**Minimum Driveway Spacing Along**			
	Local	20 ft	20 ft	20 ft
	Collector	25 ft	90 ft	90 ft
	Minor Arterial [6]	200 ft	200 ft	200 ft
	Major Arterial [3,6]	240 ft	240 ft [2]	240 ft [2]
	Driveway Angle	90	90	90
C	**Minimum distance From Driveway to Intersection**	Upstream/ Downstream [4]	Upstream/ Downstream [4]	Upstream/ Downstream [4]
	Local	20/20 ft	30/50 ft	30/50 ft
	Collector	20/50 ft	75/100ft	75/100ft
	Minor Arterial [6]	75/100ft [5]	75/100ft [5]	75/100ft [5]
	Major Arterial [3,6]	75/100ft [5]	75/100ft [5]	75/100ft [5]
	Maximum Approach Grade			
	Local/Collector	10%	6%	6%
	All Others	10%	6%	6%
	Right Turn Requirement	10%	6%	6%
	Minimum Approach Length			
	All Road Classifications	25 ft	N/A	N/A

[1] Driveway width plus radius must be contained within the property frontage, between the extended property lines.

[2] Driveways should be used jointly at median openings.

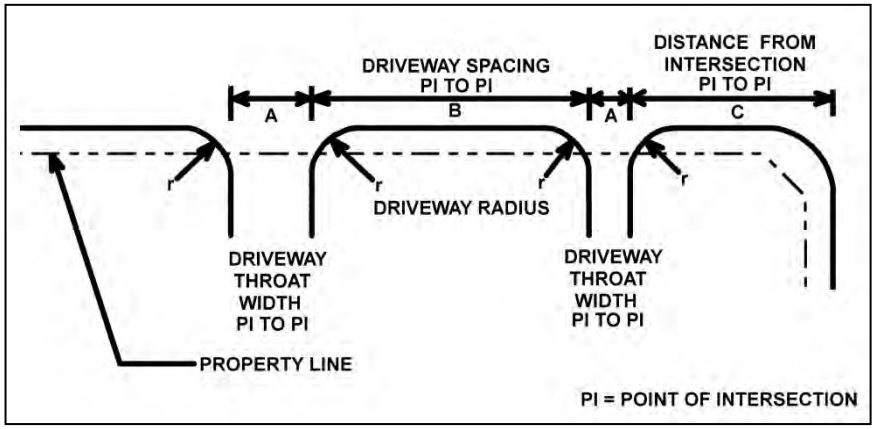
[3] Frontage Roads are considered Principal Arterials for Access Management purposes.

[4] Upstream (prior to)/downstream (after) distance to intersection

[5] Downstream driveways without a deceleration lane shall be located a minimum distance of one hundred seventy five (175) feet to the downstream edge of the intersecting right-of-way.

[6] Single-family, duplex, triplex, and fourplex driveways are not allowed.

Illustration 5.3.5 a
Access Management Diagram



(a) *Non-Single-family Driveways and Approaches*

Driveways and approaches shall comply with the following standards and with Table 5.3.5.a.

(1) Maximum Space to Be Occupied By Driveway Approaches. Driveway approaches shall not occupy more than seventy percent (70%) of the roadway abutting frontage of the tract of ground devoted to one particular use, except as noted in this Section.

(2) Number of Driveway Approaches Allowed. Not more than two (2) driveway approaches shall be permitted on any parcel of property with a frontage of one hundred and fifty feet (150') or less, except that additional openings may be permitted with the approval of the Director of Community Development for the necessity and convenience of the public.

(3) Width of Driveway Approach. The width of any driveway approach shall conform to the dimensions as required by Table 5.3.5.a, and the width shall be as measured along the property line, except that driveway approaches for motor vehicle docks, within a building, shall not exceed sixty feet (60') in width at the property line. Where more dock space is required, the driveway approaches shall be separated by a traffic island meeting the standards set out in subsection (b) 4 of this section.

(4) Separation between Driveway Approaches. When more than one (1) driveway approach is required to serve a parcel of property, the driveway approaches shall be separated by a minimum distance, as measured at the property line, as required by Table 5.3.5.a.

(5) Requirements for Safety Curb or Secured Parking Block. Where the grade at the property line may result in part of the vehicle extending into the pedestrian way, a safety curb or secured parking blocks shall be located so that no part of a vehicle shall extend over the property line into the right-of-way. The safety curb or parking blocks shall be constructed or arranged to end twenty-four inches (24") from the intersection of the driveway approach with the property line.

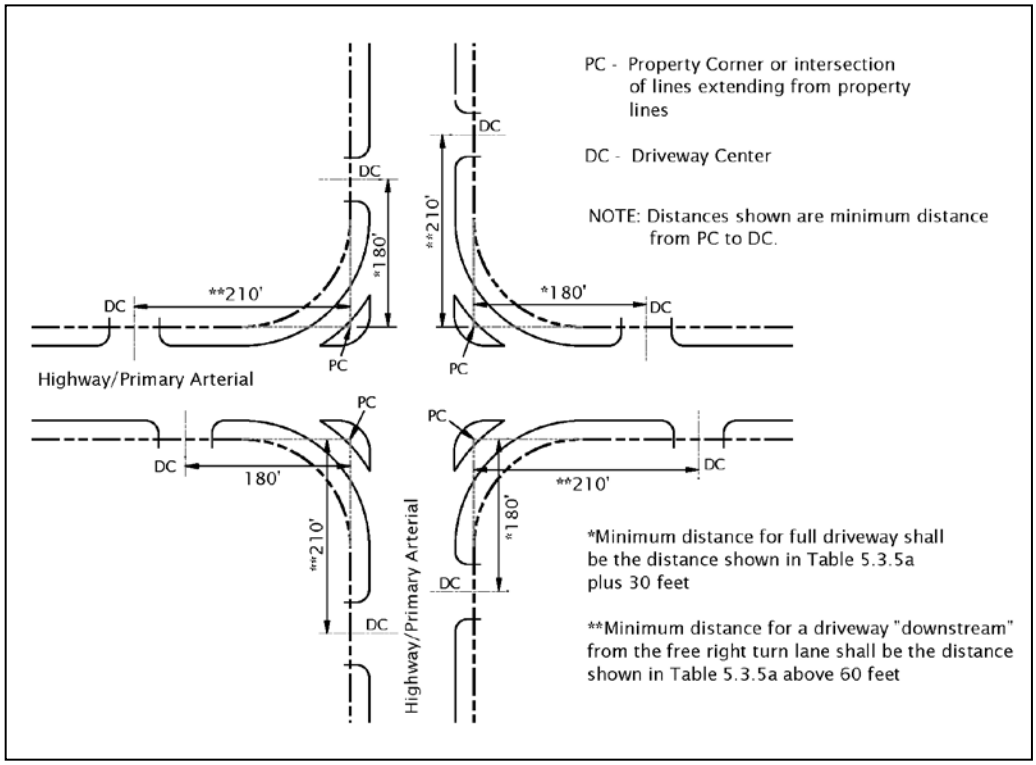
(6) Shared Driveways. Driveway approaches shall be located entirely within the frontage of the premises abutting the work, except that shared driveway access with adjoining property holders may be permitted provided joint application is made by all interested parties meeting the requirements of Section 5.4.3 and the requirements of Section 22.9.3 Shared Driveways and Cross-Access Drives in the Subdivision Regulations are met.

(7) Angle of Driveway Approach. The angle of the driveway approach with the curbline shall be approximately ninety degrees (90°) for two-way driveways, or forty-five degrees (45°) to ninety degrees (90°) for one-way driveways.

(8) Driveway Approaches at Intersections. Along either side of any parcel, the driveway approaches shall be located no closer than one hundred feet (100') or the distance in Table 5.3.5.a to the corner of the intersecting right-of-way. Corner parcels less than one hundred and fifty feet (150') in length along the right-of-way shall combine access with adjoining property, wherever possible. Where it can be shown that access is effectively denied a corner parcel because of the one hundred (100)-foot distance from the corner of the intersecting right-of-way and combined access is not available from adjoining property, an exception to the requirement may be granted by the Community Development Director, provided the applicant demonstrates that an exception will not create a traffic hazard.

(9) Driveway Approaches at Major Roadway Facilities. Driveway approaches at or near major traffic intersections, interchanges, grade separations and traffic circles shall be so located that traffic entering or leaving the street will not impede, confuse, imperil or otherwise interfere with vehicular traffic. See Illustration 5.3.5 (b) below:

Illustration 5.3.5 (b)
Commercial Curb Cut



(10) Driveway Approaches in Existing On-Street Angle or Head-In Parking Areas. Driveway approaches shall not be constructed in existing on-street angle or head-in parking areas unless all curb is restored to a standard location along the roadway in front of the premises.

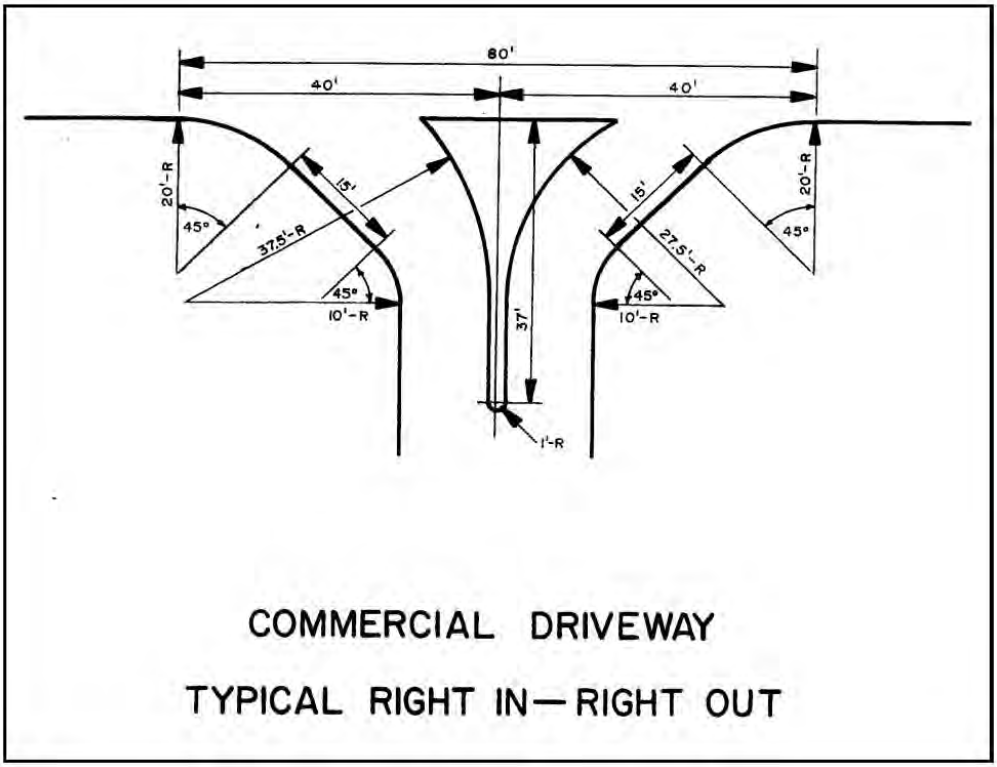
(11) Obstruction of Driveway Approaches. Driveway approaches shall not be constructed or designed so that standing or parked vehicles may obstruct the driveway.

(12) Premises Used As Motor Bank. Premises used as a motor or drive-through bank may have driveway approaches as approved by the Community Development Director. The approaches shall be utilized for drive facilities and shall not be utilized for angle or head-in parking.

(b) *Standards for One-Way Driveways*

One (1)-way driveways shall have the same standards as two (2)-way driveways, except for width, which shall be a minimum of twelve feet (12') and a maximum of twenty-five feet (25'). The minimum spacing between drives shall be twice the curb radius.

Illustration 5.3.5 (c)
Commercial Driveway



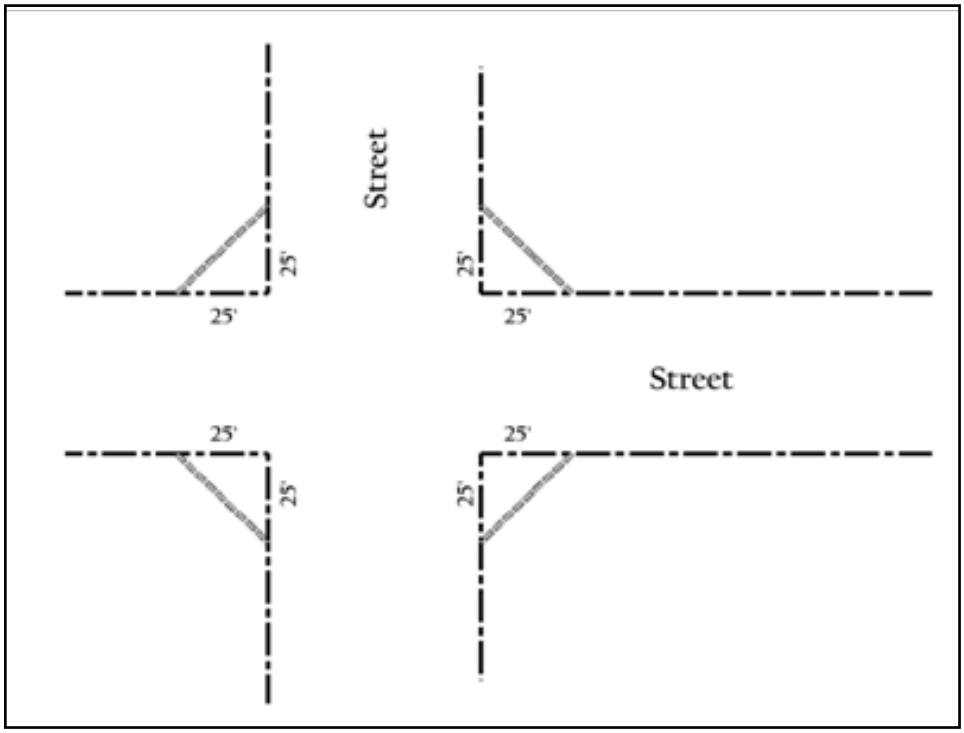
5.3.6 *Sight Lines at Driveways and Intersections*

The following statements are definitions of the sight distance area:

(a) *Sight distance area at intersection of two (2) public streets*

On any corner lot, a triangle formed by measuring from the point of intersection of the front and exterior lot lines a distance of twenty-five (25) feet along said front and side lot lines and extending the hypotenuse to the curb and connecting the points so established to form a sight triangle on the area adjacent to the street intersection.

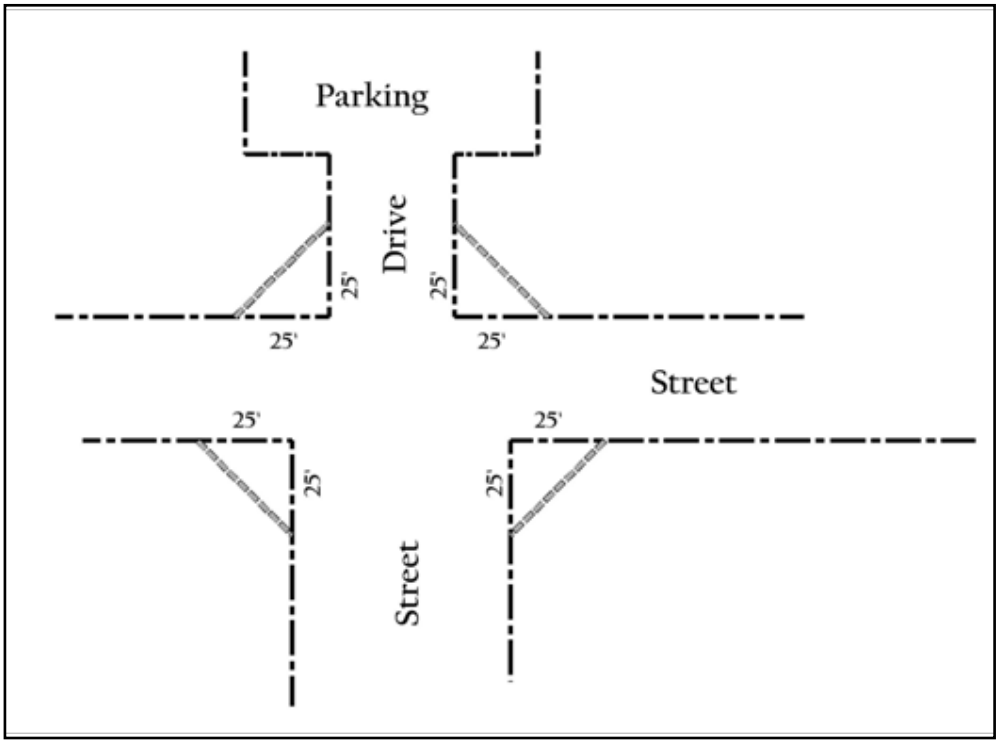
Illustration 5.3.6 .(a)
Sight Lines at Intersections



(b) *Sight distance area at an intersection of a local or collector public street and private driveway leading to a parking lot of six (6) or more vehicles*

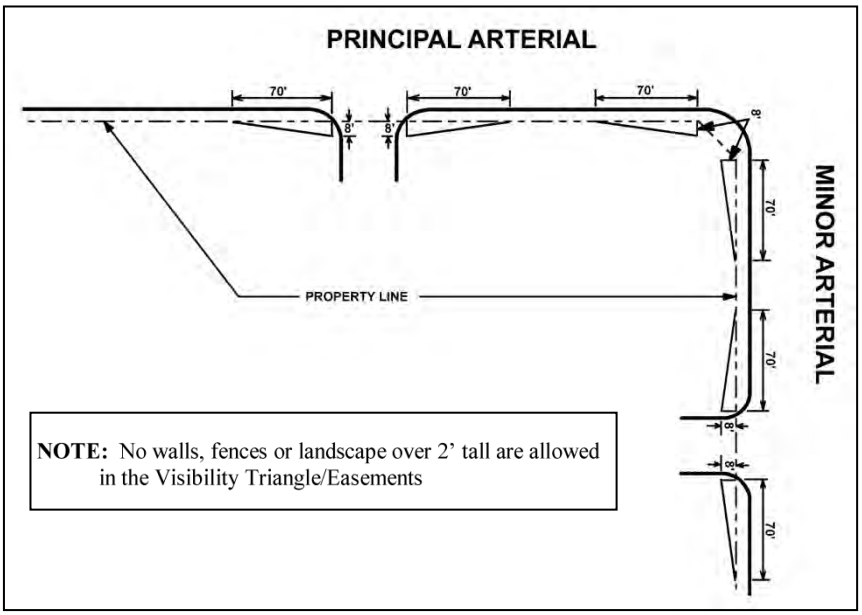
Triangle formed by measuring from the points of the front lot line and the exterior edges of the pavement of the driveway approach from the private property to the public thoroughfare a distance of twenty-five (25) feet along said front line and said edges of pavement and connecting the points so established by extending the hypotenuse to the curb to form a sight area adjacent to the driveway intersection, and including the area of the driveway between the two (2) triangles.

Illustration 5.3.6 (b)
Sight Lines at Intersections and Driveways



(c) *Sight Distance at an intersection of an arterial street and a private driveway. Triangle shall be 75' measured along the arterial by 8' deep at the driveway. See Illustration 5.3.6 (c)*

Illustration 5.3.6 (c)
Sight Lines of Arterial Street and Private Drive



(d) *Right-of-way*

No parking wall, fence, sign, structure or any plant growth other than grasses shall be placed or maintained within any portion of the right-of-way included in the sight triangle.

(e) *Sight distance area*

(1) No parking wall, fence, sign, or structure shall be placed or maintained within the remaining sight distance area, herein defined from ground elevation to a height of ten (10) feet, except for traffic directional signs not to exceed thirty (30) inches.

(2) No plant growth shall be placed or maintained which would exceed a mature height of thirty (30) inches.

(3) The height will be based on the elevation of the adjacent public street or private driveway, whichever is greater, excepting for traffic control signs and lighting standards and except for private sign poles not exceeding one (1) foot in diameter.

(f) *Parking in the driveways*

Parking in the driveways of single-family and two family dwellings are excluded from these Regulations.

(g) *One-way streets and streets which have divided medians*

On one-way streets and streets that have divided medians, the site distance triangle will only apply on the side that has oncoming traffic.

5.4 Height

5.4.1 *Exceptions*

Chimneys, elevators, poles, spires, tanks, towers, penthouses for elevators and HVAC, parapets, and other projections not used for human occupancy shall not extend fifteen (15) feet above the maximum height allowable of the district in which it is located without the prior approval of the Council.

Public and quasi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one (1) foot for each two (2) feet by which the height of such public or quasi-public structure exceeds the prescribed height limit.

5.4.2 *Side and Rear Yard Setback Adjacent to Single-family Residential Land*

(a) *Building Height Related to Setback*

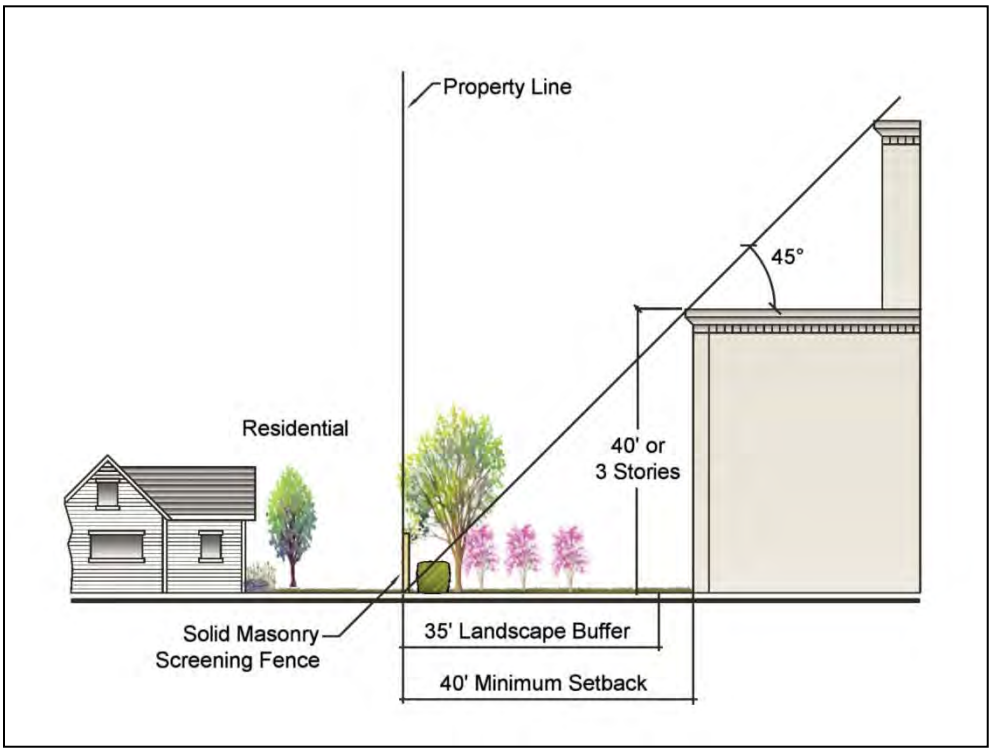
Non-Single-family Uses , including Mulit-family uses, adjacent to single-family residential zoned lands, must provide a solid eight (8) foot tall masonry screening fence in accordance with Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances and with paragraph (C) below. Buildings must be set back to fit within a 45-degree slope measured from the residential property line to maintain privacy for adjacent single-family zoned lands, See Illustration 5.4.2.a. In no case shall the height exceed that allowed in Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts.

Illustration 5.4.2 (a)
Example of Building Height with Additional Building Setback
Adjacent to Single-family Zoned Residential Areas

(b) *Building Height at Minimum Setback Line*

Building floors may be "Staggered" to allow the three (3) lowest floors to be placed at the minimum building setback line. See Illustration 5.4.2(b) .

Illustration 5.4.2 (b)
Example of Building Height at Minimum Building Setback Line
Adjacent to Single-family Zoned Residential Areas



(c) *Landscape Buffer and Screening*

Landscape buffer and screening requirements shall be in accordance with Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance). In addition to such requirements, non-residential properties shall provide an eight (8) foot masonry fence on any side or rear property line adjacent to single-family residential zoned properties.

5.4.3 *Maximum Building Height within the RC, MIX, SPH, C-3, CC, I-2, and I-3 Districts*

Building height not adjacent to single-family residential zoning will be limited as follows:

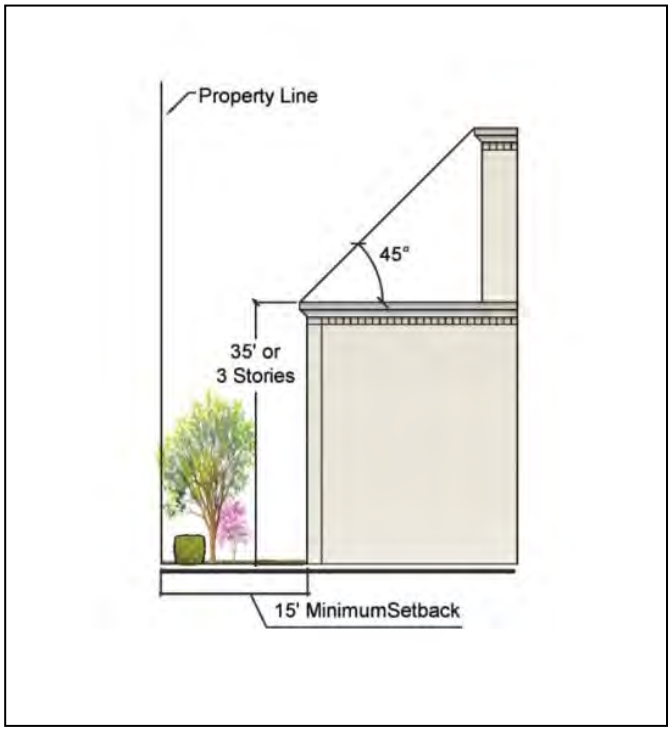
(a) *First fifteen (15) feet of distance*

For the first fifteen (15) feet of distance from said property line, building height shall not exceed thirty-five (35) feet;

(b) *From fifteen (15) feet to one hundred thirty (130) feet of distance*

From fifteen (15) feet to one hundred thirty (130) feet of distance from said property line boundary, building height may be increased above thirty-five (35) feet to a maximum height of one hundred thirty feet (130) feet within a diagonal line representing one (1) foot of additional building setback for every one (1) foot of additional height. See Illustration 5.4.3.(a)

Illustration 5.4.3 (a)
Example of Maximum Building Height within the MIX, SPH, C-3, CC, I-2, and I-3 Districts Adjacent to Single-family Zoned Residential Areas



(c) *For the balance of the parcel*

For the balance of the parcel, building height may be increased above one hundred thirty (130) feet within a diagonal line representing one (1) foot of additional building setback for every one (1) foot feet of additional height up to the maximum allowed in Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts. Buildings in excess of twelve (12) stories or (130) feet in height shall require a Special Use Permit in accordance with Section 7.6 Special Use Permit.

5.4.4 *Conflicts*

Where an area is restricted by more than one (1) height limitation, the more restrictive limitation shall prevail.

5.5 Zero Side Setback for Patio Homes or Zero Lot Line Residences

The side yard setback may be as little as zero feet on one (1) side of the lot provided it meets all of the following:

5.5.1 *Side Setbacks Designated on Final Plat*

Each lot on the final plat shall show the designated reduced side set back and on the opposite side setback a full ten (10) foot setback. In no case shall two lots have reduced side yards adjacent to each other.

5.5.2 *Opposite Side Setback*

The opposite side setback is not less than ten (10) feet and is perpetually maintained free and clear from any obstructions other than a two (2) foot eave encroachment, and normal landscaping; and

5.5.3 *Projections across any Property Line*

No portion of the dwelling or architectural features, except eaves, may project more than two (2) feet across any property line (eaves may project two [2] feet or less over the property line) into a platted easement providing for such encroachment and

5.5.4 *Public or Private Right-of-Way*

The zero side setback is not adjacent to a public or private right-of-way; and

5.5.5 *Site Plan*

A site plan is prepared in accordance with Section 7.5 Site Plan at the time of building permit application; and

5.5.6 *Maintenance/Access Easement*

A recorded five (5) foot maintenance/access easement is provided on the property adjacent to the zero lot line and shown on the final recorded plat for each lot.

5.6 Open Space, Required Yards and Courtyards

The following requirements are intended to provide exceptions or quality and supplement, as the case may be, the specific district regulations set forth in Section 2.0 Zoning Districts.

5.6.1 *Open Space to Serve One Building*

No open space or lot area required for a building or structure shall, during its life, be occupied by, or counted as open space for, any other building or structure.

5.6.2 *Projections into Required Setbacks*

(a) *Elements*

Open eaves porches, cornices, windowsills, belt courses, and fireplace chimneys may project into any required setback a distance not to exceed two (2) feet provided they do not encroach within five feet of the adjacent property line.

(b) *Porches*

(1) Open porches not exceeding one-story in height may project into a front setback a distance not to exceed eight (8) feet and may have a railing and a roof, in accordance

with Section 5.13.2(d) Covered Front Porch. All other porches must meet the front setback requirements.

(2) Open porches shall not project within ten (10) feet of the rear property line and shall not encroach on any easement.

(c) *Carports*

For carports see Section 5.11 Carports

5.6.3 *Court Requirements for Multifamily Dwellings*

Whenever a multifamily dwelling or group of multifamily dwellings is designed with an inner or outer court, the following requirements shall be complied with:

(a) *Outer Court width*

The width of an outer court upon which windows open shall be not less than ten (10) feet, or equal to the height of the opposing wall, whichever is greater; and in no case shall an outer court be less than five (5) feet in width or equal to seventy (70) percent of the height of the opposing wall, whichever is greater.

(b) *Inner Court width*

The width of an inner court of a multifamily dwelling shall be not less than two (2) times the height of the lowest wall forming the court, but in no case shall it be less than twenty (20) feet.

(c) *Passageway for Inner Court*

An open unobstructed passageway shall be provided at the grade of each inner court. Such passageway shall be not less than twelve (12) feet in width, shall have a clearance of not less than twelve (12) feet in height, and shall provide a straight and continuous passage from the inner court to a yard or open space having a direct connection with a street.

5.7 Accessory Uses and Structures

The purpose of this section is to establish development standards for uses and structures that are accessory to the main use or structure.

5.7.1 *Signs*

Signs and off premise advertising shall be defined, allowed, constructed, permitted and maintained in accordance with Section 11.0 Existing Chapter 90, Sign Ordinance.

5.7.2 *Home Occupations*

(a) *Home occupations are permitted subject to the following provisions:*

(1) With the exception of outdoor play activity associated with in-home childcare centers, home occupations shall be conducted entirely within the main or accessory buildings. There shall be no outdoor storage associated with any home occupation;

(2) There shall be no trading of merchandise and there shall be no display of any merchandise or sign associated with any home occupation;

(3) No mechanical equipment shall be used or activity conducted that creates excessive traffic, noise, dust, odor or electrical disturbance beyond the confines of the lot on which the home occupation is conducted;

(4) Home occupations are permitted within zoning districts according to Section 4.9.2 Use

Chart; and

(5) Home occupations shall comply with these Regulations.

5.7.3 *Trash Dumpster(s) and Enclosure*

(a) *Dumpster Requirements*

(1) All new commercial buildings shall be served by a minimum of one (1) eight (8) yard capacity dumpster provided by the City, unless other arrangements are approved by the Director of Community Development in compliance with the Code of Ordinances.

(2) All dumpsters shall be screened/enclosed on three (3) sides by a minimum of eight (8) foot tall brick walls.

(3) Such enclosures shall have inside dimensions of no less than ten (10) feet in width and fourteen (14) feet in length.

(4) Gates shall be incorporated into the design of the enclosure and shall provide a ten (10) foot wide clear space when open.

(5) A locking device shall be installed on the gates.

(6) Keeper latches shall be installed to allow gates to remain open during the servicing or the refuse containers.

(b) *Dumpster Site Location*

(1) At the time of preparing plans for new commercial buildings, land area on the site shall be designated as a location for the required dumpster(s) and enclosure, which shall be indicated on those plans.

a. Such location shall not occupy any designated parking space, dedicated right-of-way and/or create any traffic sight hazard.

(2) An unobstructed approach shall be provided to allow refuse collection trucks to maneuver on the property without the backing onto a public street.

(c) *Drains Prohibited in Dumpster Site Location*

(1) No drains of any type shall be permitted within the design of the dumpster enclosure.

(d) *Continuously Housed*

(1) The dumpster(s) shall be housed inside the enclosure at all times when not being serviced.

5.7.4 *Small Concrete Batch Plant*

A small concrete batch plant is permitted if a Specific Use Permit is approved as an accessory use in conjunction with any permitted use in Section 4.4.19 Commercial Sales and Services: General provided that:

- No noise, smoke, heat, glare or dust is produced which will create a noise or a nuisance violation as defined in the City of Shenandoah Municipal Code, and
- Said small concrete batch plant shall not be located within or over any drainage, utility, or other dedicated easement, and
- Said plant must be located at least one and one-half (1 1/2) times its total height from any adjoining property or right-of-way line.

All ingress and egress, loading areas, and bulk storage areas must be hard surfaced. Also provided that:

(a) *Special Use Permit required*

(1) It shall be unlawful for any person to construct, erect, install, alter, or locate any small concrete batch plant within Shenandoah unless a Special Use Permit has been obtained pursuant to these Regulations.

(2) This permit shall be both a construction permit and an operational permit.

(3) A small concrete batch plant permit may be revoked any time the small concrete batch plant does not comply with these Regulations.

(b) *Permit Form*

Applications for a permit required by these Regulations shall be made upon forms provided by the community development department and shall contain the following information:

(1) Property owner's name and address, applicant's name and address, if different from property owner.

(2) A site plan showing property lines, easements, setback lines, and the location and size of all existing structures on the property.

(3) A description of the proposed structure, providing details of construction, components, and proposed attachment to the ground or other basis.

(4) The proposed location of the small concrete batch plant on the subject property and their distance from all property lines and right-of-way.

(5) The proposed ingress and egress, loading area, and bulk storage area.

(c) *Conformity*

All small concrete batch plants shall be designed and constructed so as to conform to the **Adopted Building Codes** of Shenandoah.

(d) *Electrical*

All electrical compartments, electrical storage facilities, and electrical interconnections with utility companies shall be in conformance with the **Adopted City Electrical Codes**.

5.7.5 *Satellite Dish Antennas Greater than Three (3) Feet in Diameter*

Satellite dish antennas greater than three (3) feet in diameter shall be defined as a “large satellite dish” and include those structures constructed, erected, or placed, which intercept television, radio, or other signals transmitted from satellites and measure greater than three (3) feet in diameter. These large satellite dish antennas shall be subordinated to the principal use of the property upon which it is located and shall be permitted in any zoning district only if the following rules and regulations are met.

(a) *Building Permit Required*

Any person constructing, erecting, or placing a large satellite dish antenna, in whole or in part, shall obtain a building permit. Satellite dishes smaller than three (3) feet in diameter shall not require a permit.

(b) *Residential/Agricultural/Institutional (Personal)*

No large satellite dish antenna shall violate a required front setback, front building line, or side setback nor shall said antenna or any part thereof be located in front of the main structure or upon or over any dedicated easement or street right-of-way.

(c) *Commercial/Office/Industrial (Personal)*

Large satellite dish antennas for personal use in a Commercial, Office or Industrial Zone District with no wholesale or retail sales purpose shall be permitted within the front setback, front building line, or side setback, but said antenna or any part thereof shall not be located upon or over any dedicated easement, street right-of-way, or located within a sight triangle.

(d) *Commercial/Industrial (Wholesale/Retail)*

Large satellite dish antennas for the purpose of wholesale or retail sales of said large satellite dish antennas with outside display shall be permitted only in those districts that allow limited special and open display commercial. No large satellite dish antennas or any part thereof shall be permitted to locate upon or over any dedicated easement, street right-of-way or located within a sight triangle.

(e) *Safety*

All large satellite dish antennas and the grounds surrounding the antenna shall be maintained in safe condition.

(f) *Inspections*

The building inspection department shall inspect at such times as it deems necessary each large satellite dish regulated by this division for the purpose of ascertaining whether the same is secure or insecure, and whether it is in need or removal or repair.

(g) *Ingress To or Egress*

No large satellite dish shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No large satellite dish of any kind shall be attached to a standpipe or fire escape.

(h) *Attached to the Ground*

All large satellite dishes located outside of main or accessory buildings shall be so constructed, erected, or placed so as to attach to the ground on a permanent location with two (2) ground mobile home augers. Any deviation from using two (2) ground augers requires approval by the building office of Shenandoah.

(i) *Height Restrictions*

No large satellite dish antenna shall violate the height restrictions of the zoning district in which said antenna is located.

(j) *Permit Fee*

Refer to the adopted **Zoning Ordinance Fee Schedule** for fees.

5.7.6 *Wind Energy Conversion Systems*

Wind energy conversion systems (WECS) shall be defined as any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy.

(a) *Special Use Permit (SUP) required*

A WECS structure shall be permitted by Special Use Permit within any zoning district provided that it is located upon a single tract of land.

(b) *Permit Required*

(1) It shall be unlawful for any person to construct, erect, install, alter or locate any WECS within Shenandoah unless a permit has been obtained pursuant to these Regulations.

(2) This permit shall be both a construction permit and an operational permit.

(3) A WECS permit may be revoked any time the WECS does not comply with these Regulations.

(c) *Application*

Application for a permit required by these Regulations shall be made upon forms provided by the building official and shall contain the following information:

(1) Property owner's name and address, applicant's name and address, if different from property owner.

(2) A plot plan showing property lines, easements, setback lines, and the location and size of all existing structures on the property.

(3) A description of the proposed structure, providing details on construction, components, and proposed attachment to the ground or other basis.

(4) The proposed location of the WECS tower and all guy wires on the subject property and their distance from all property lines.

(5) The overall diameter of the blade to be utilized and the distance between the hub of the tower to the ground level at the base of the tower.

(d) *Conformity*

All WECS towers/structures shall be designed and constructed so as to conform to the adopted building codes of Shenandoah.

(e) *Speed Controls*

All WECS shall be equipped with manual and automatic over speed controls which are defined as mechanisms to limit the speed of the blade rotation to below the design limits of the WECS.

(f) *Electrical*

All electrical compartments, electrical storage facilities, and electrical interconnections with utility companies shall be in conformance with the adopted city electrical codes.

(g) *Sign*

At least one sign shall be posted at the base of the WECS structure and shall contain the following information:

(1) Warning high voltage;

(2) Emergency phone number; and

(3) Emergency shutdown procedure.

(h) *Safety*

WECS structures of lattice design that are capable of being climbed shall be enclosed by a locked, protective fence six (6) feet in height. Other types of WECS structures shall either:

(1) Have a tower climbing apparatus located not closer than twelve (12) feet to the ground; or

(2) Be un-climbable by design for the first twelve (12) feet; or

(3) Be enclosed by a six (6) foot high locked protective fence.

(i) *Fence*

The anchor points of the guy wires supporting a WECS structure shall be enclosed by a six (6) foot high fence or shall be located within the confines of a yard that is completely fenced.

(j) *Blade Arcs*

The lowest point of the blade arcs of a WECS shall be a minimum of fifteen (15) feet above the ground.

(k) *Distance Separation*

The distance from one WECS tower to a second WECS tower shall be no less than one hundred (100) feet.

(l) *Roof Location*

WECS structures may be located upon the roof of existing structures only when the following conditions apply:

(1) The applicant submits an engineer's certificate stating the structure will support the weight and wind loading pressure of the proposed WECS structure, and

(2) All guy wires supporting the WECS structure will have its anchor points upon the confines of the roof of the structures upon which said WECS structure is located.

(m) *Prohibited Location*

No part of a WECS (including guy wires) shall be located within or over any drainage, utility, or other dedicated easement, street right-of-way and/or minimum required front or side setback in any zoning district.

(n) *Height*

(1) The height of a WECS structure shall be measured from the ground level base to the farthest extension of the tower or the tip of the rotor blade at its highest point, whichever is greater.

(2) The maximum overall height of the WECS structure shall not be regulated; however, a required setback of a distance from any exterior property lines shall be designated.

a. This designated distance shall not be less than one and one-half (1 1/2) times the total height of the WECS structure.

b. Example: If the height of the WECS structure is seventy-two (72) feet, then the structure must be a minimum of one hundred eight (108) feet from any exterior property line of the property on which the structure is located.

(o) *Special Exceptions*

Applications for special exceptions shall be made in writing, including fee, to the Board.

(p) *Permit Fee*

Refer to the adopted **Zoning Ordinance Fee Schedule** for fees.

5.7.7 *Mining and Processing: Oil and Gas*

(a) *Mining and processing*

Oil and gas shall be prohibited in all zoning districts unless specifically authorized by the Council with a Special Use Permit as provided in Section 4.8.2, Mining and Processing: Oil and Gas and Table 4.9.2 and if such use is in compliance with the Shenandoah Code of Ordinances regarding Mining, Oil and Gas Wells**.**

5.7.8 *Accessory Buildings and Related Use Regulations*

(a) *Residential Districts*

In a single-family or multi-family district, an accessory building is a subordinate or incidental building, attached to or detached from the main building, not used for commercial purposes or for a home occupation and not rented unless permitted as an accessory dwelling unit. Accessory buildings shall be located toward the rear portion of the property, and shall conform to applicable provisions of the Building Code.

(1) Accessory dwellings (including garage/accessory dwellings and detached units) may be permitted as a matter of right or with a Special Use Permit, if approved, as specified within a particular residential zoning district (see regulations for the specific district, and the Use Charts See Section 4.9.2 Use Chart and Table 3.2 Area Regulations and Standards for Residential Districts, and shall conform to the height limitations of the zoning district.

(2) Only one (1) accessory dwelling unit (i.e., garage/accessory dwelling, servants/ caretakers quarters, etc.) shall be allowed on any lot if allowed within a specific residential zoning district, and they shall be clearly incidental to the primary use. These accessory living structures shall not, in any case, be sold.

(3) Size of Yards:

a. Front Yard - Accessory building(s) shall be prohibited in front of the main building.

b. Side Yard - Accessory building(s) shall conform to the same minimum side yard requirements as the main building, except that:

1. Garages or carports located and arranged so that entry is from an interior side yard shall have a minimum setback of twenty-five feet (25') from the side lot line. Carports or garages arranged so that entry is from the side yard, facing a public street, shall have a minimum setback from the side lot line that is equal to the required side yard for the main building or twenty feet (20'), whichever is greater.
2. Swimming pools may encroach to within 3 feet of the lot line, provided it does not encroach upon any easement.

c. Rear Yard

1. With the exception of the IZ districts, accessory building(s) shall have a minimum rear yard of three (3) feet from any lot line or alley or utility easement line, except that:
2. Carports, garages, or other accessory buildings, located within the rear portion of a lot as heretofore described shall not be constructed closer than ten (10) feet to the main building and shall have a rear yard equivalent to the rear yard requirement for the main building;

(4) Tract, parcel, or lot with a gross area of one-half (1/2) acre or less.

a. Accessory structures when located, constructed or otherwise erected on a tract, parcel, or lot with a gross area of one-half (1/2) acre or less, shall not exceed seven hundred fifty (750) square feet in area or twenty (20) percent of

the rear yard area, whichever is the lesser, and shall not exceed the height of the main structure on the tract, parcel or lot. Barns in the IZ, Interim Zoning District shall be exempt from the size requirement.

b. The accessory structures shall not be within five (5) feet from the side property line. At no time, except as provided in subsection (d) below, shall any portion of the accessory structure be located upon a dedicated easement.

(5) Tract, parcel, or lot with a gross area over one-half (1/2) acre.

a. Accessory structures located, constructed or otherwise erected on a tract, parcel or lot with a gross area over one-half (1/2) acre shall not exceed twenty (20) percent of the rear yard area and shall not exceed the height limitation of the zoning district in which it is located. Barns in the IZ, Interim Zoning District shall be exempt from the size requirement.

b. All accessory structures over fifteen (15) feet in height shall be located at least ten (10) feet from the side property line and fifteen (15) feet from the rear property line. At no time, except as provided in subsection (d) below, shall any portion of the accessory structure be located upon a dedicated easement.

(6) Building Coverage

Main and accessory buildings shall not exceed the allowable coverage percentage of the zoning district in which they are located Table 3.2 Area Regulations and Standards for Residential Districts.

(b) *Non-residential Districts*

In non-residential districts, a non-residential accessory building is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory buildings should, wherever possible, be located toward the rear portion of the property. Accessory buildings shall conform to applicable provisions of the Building Code.

(c) *Small Accessory Structures on Easements*

(1) Only accessory structures under one hundred twenty (120) square feet in area, under less than fifteen (15) feet in height, and constructed on skids may be located upon a dedicated easement.

(2) Owners or occupants of the land upon which the accessory structure is located shall be responsible for relocating the portable or temporary building in event the city or any franchised public utility needs access to the easement.

(3) Unless an emergency exists, the property owner shall have seventy-two (72) hours to relocate the building after notice by the city or franchised public utility.

(4) If the property owner cannot or refuses to relocate the building, or in the event of an emergency, the city or franchised public utility may have the building relocated at the owner's expense.

(5) The city or franchised public utility shall not be responsible for any damages to said building or property due to the required relocation.

5.7.9 *Steel Shipping/Storage Containers Used as Accessory Structures*

(a) *Prohibited in residential zoning districts for long-term or permanent use*

Steel shipping/storage containers shall not be used as long-term or permanent uses within a residential zoning district.

(b) *Permitted temporary use of steel shipping containers*

Steel shipping/storage containers may be located on residentially zoned property for a period not to exceed thirty (30) business days.

(c) *Steel shipping containers*

Steel shipping containers consist primarily of a steel exterior, are manufactured to transport goods, and have external measurements of twenty (20) or forty (40) feet in length by eight (8) feet six (6) inches in height by eight (8) feet in width.

Illustration example of steel shipping containers

Illustration example of temporary storage containers.

5.8 Reserved

5.9 Lot Size Variety within Residential Districts

5.9.1 *Lot Variety*

In order to promote housing diversification within neighborhoods, single-family residential development within the residential zoning districts shall provide for lot size variety.

(a) *Applicability*

(1) All developments five (5) acres or larger, and

(2) Single-family residential development within the R-6, R-1, R-10, and R-22 Single-family Detached Residential Districts.

(3) Fifteen (15) percent of lots within a subdivision plat shall be at least twenty (20) percent larger than the minimum lot size.

(4) Fifteen (15) percent of lots within a subdivision plat shall be at least forty (40) percent larger than the minimum lot size.

(b) *Lot Distribution*

(1) Lots of various sizes shall be evenly distributed throughout a development.

5.10 Single-Family Driveways and Garages

5.10.1 *Standards for Garages for Single-Family Units*

The placement of garages in a neighborhood can have a substantial impact on a neighborhood's visual appearance. If alleys are not used in the design of a neighborhood, then driveways must be attached to the street. As a result, little space is available for on-street parking in smaller lot subdivisions. Typically, when no alley is present, a common design layout is for the garage to be placed facing the street. This design layout generally establishes the garage as the most dominant visual feature from the view of the street, and it generally does not contribute to the visual appeal of a neighborhood and does not conform to the image of quality neighborhoods established in the comprehensive plan.

(a) *Applicability*

(1) The following provisions apply to all garages.

(2) One-story garages as shown in Illustrations 5.10.1 (a), (b), (c), and (e) may be allowed by special exception to encroach five (5) additional feet into a front or rear yard setback to encourage garages to not face the street. Such garages shall not be allowed to be converted to residential use. Setback encroachment special exceptions may be permitted on a case-by-case basis and shall apply only to the garage portion of the structure, and in no case shall the driveway provide less than two (2) side by side eighteen (18) foot parking spaces that do not encroach on the right-of-way. A site plan shall be submitted to the Development Review Committee (DRC) for consideration. The DRC will make a decision as to whether these criteria have been met and whether a special exception should be granted. The DRC's decision may be appealed to the Commission. The Commission decision may be appealed to the Council.

(b) *Garage and Driveway Design Option*

All applicable single-family units is encouraged to shall have one of the following driveway and garage configurations.

(1) The driveway shall be designed in a letter "J" formation and connected to a garage with a side entrance as shown below.

Illustration 5.10.1 (a)
J-Driveway with the Garage Behind the House

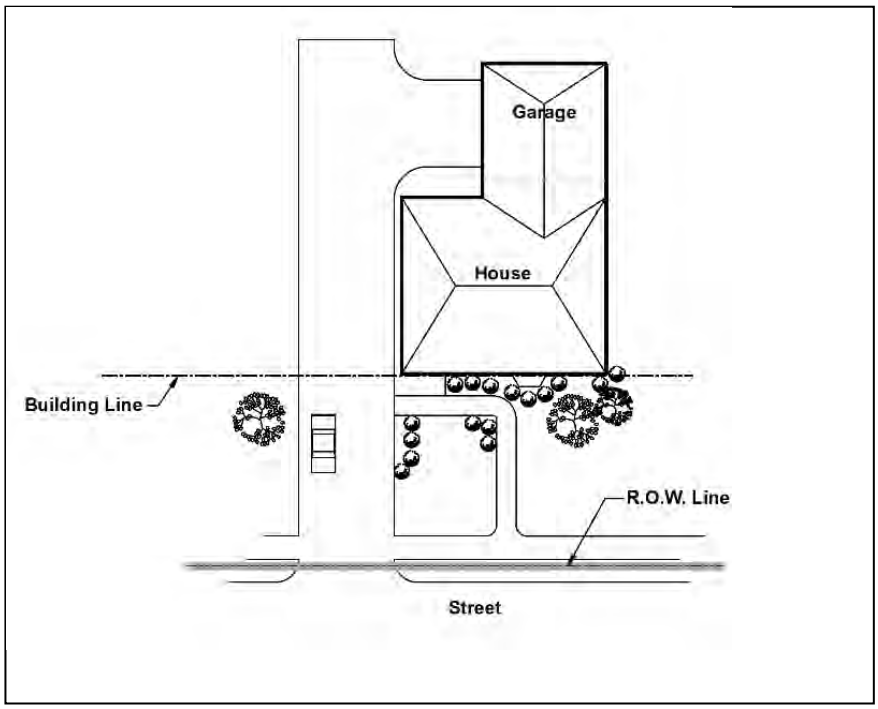


Illustration 5.10.1 (b)
J-Driveway with the Garage in the front of the House

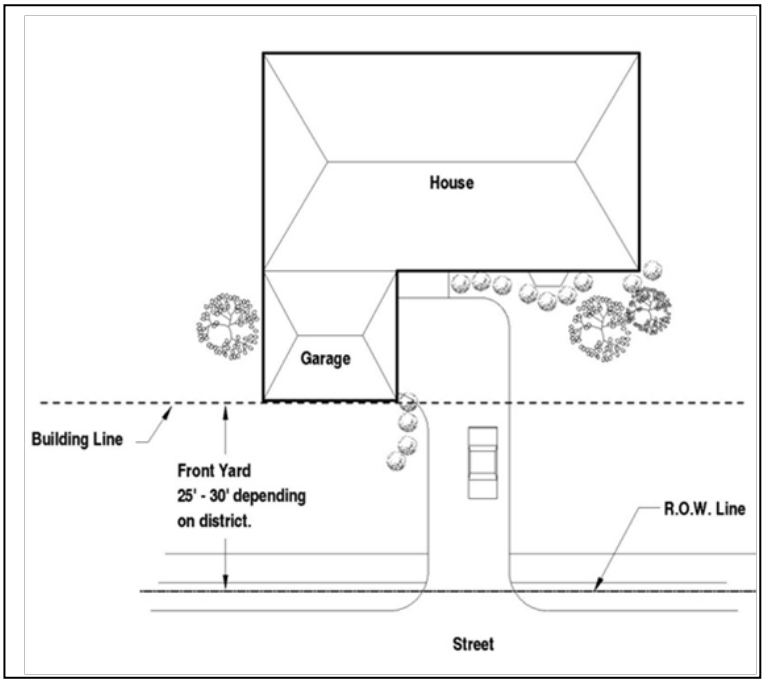
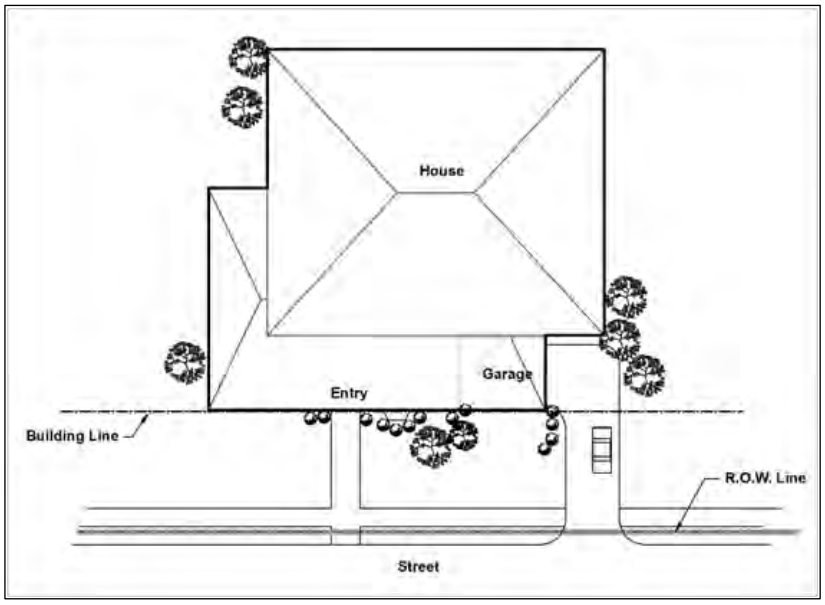
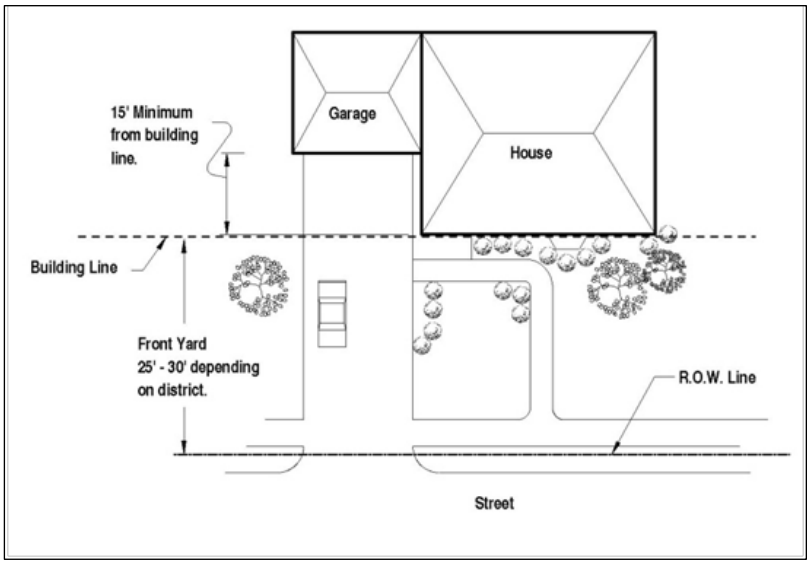


Illustration 5.10.1 (c)
J-Driveway with the Garage in the Front and Side of the House



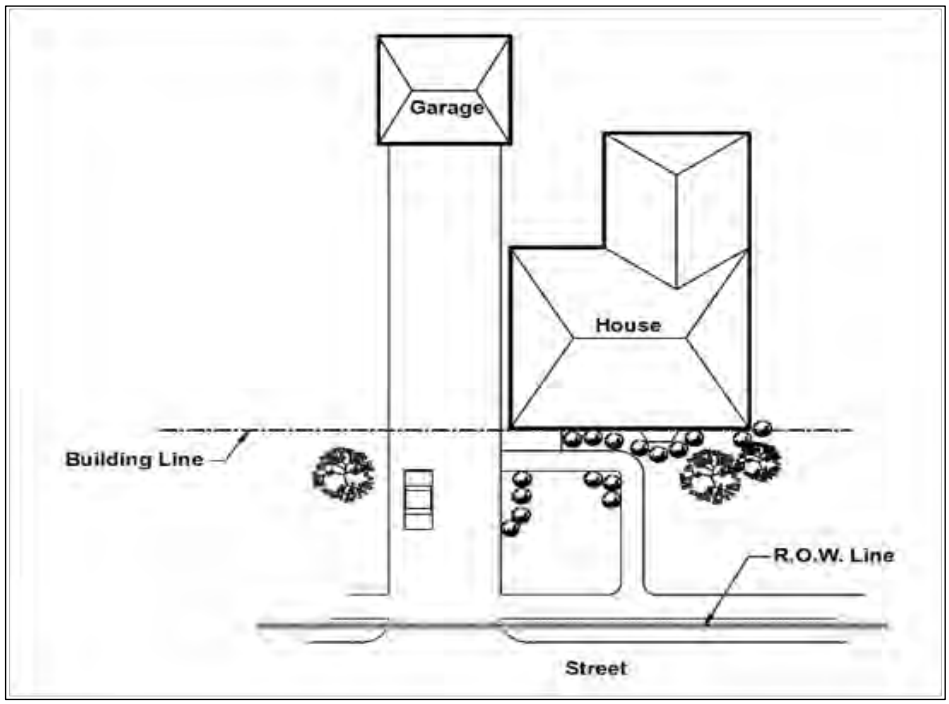
(2) The driveway is designed straight to a garage that is set back fifteen (15) feet from the front building line; or

Illustration 5.10.1 (d)
Straight Driveway with the a 15' Minimum Garage Setback from the Front Building Line.



(3) The driveway is designed and connected to a detached garage and is located in the rear yard of the property.

Illustration 5.11.1 (e)
Straight Driveway with Detached Garage

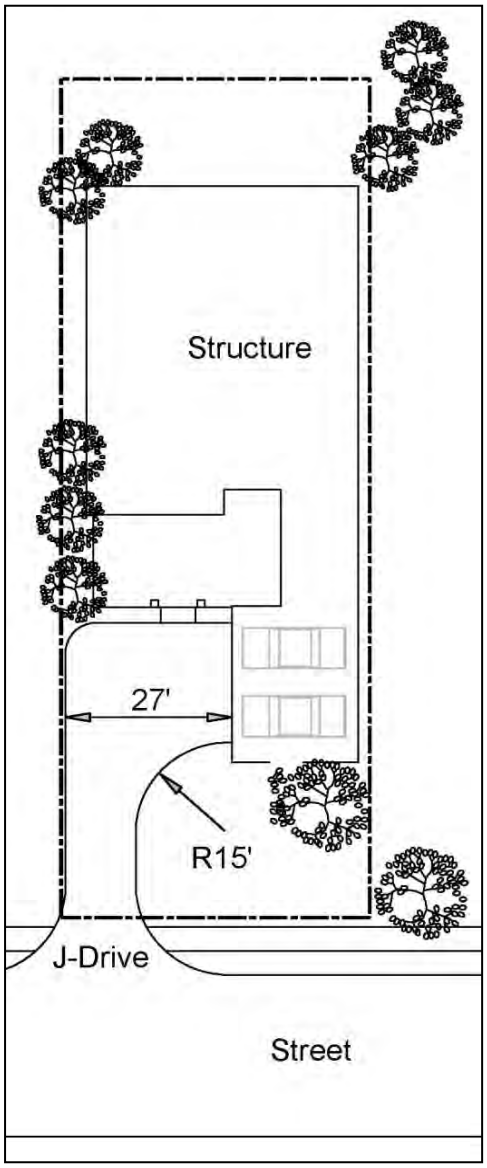


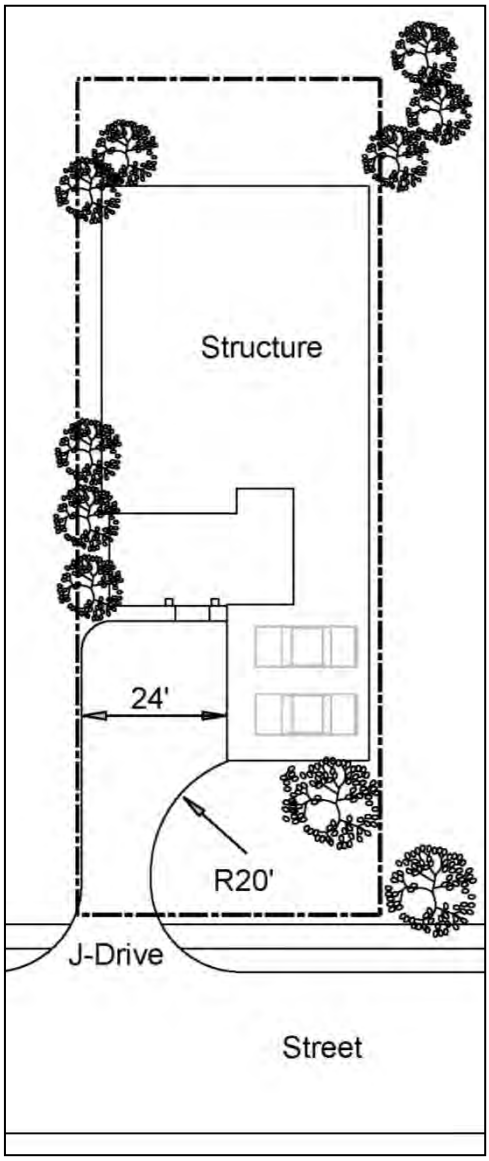
(c) *Enclosed Spaces and Driveway Width*

Each single-family unit shall have a minimum of two (2) enclosed parking spaces plus two (2) non-stacked parking spaces in accordance with Table 5.3.2.(c) Specific Parking Requirements with a minimum driveway width of sixteen (16) feet.

(d) *Alley Access*

Garages with doors facing alley access or a street right-of-way must be setback a minimum of eighteen (18) feet or the setback as required in Table 3.2 Area Regulations and Standards for Residential Districts whichever is greater.





5.11 Carports

5.11.1 *Carport Requirements*

Carports are permitted to be added to residential structures and are subject to the following conditions and regulations:

(a) *Building permit*

Any person erecting or constructing a carport, in whole or in part, shall obtain a building permit.

(b) *Number of carports allowed*

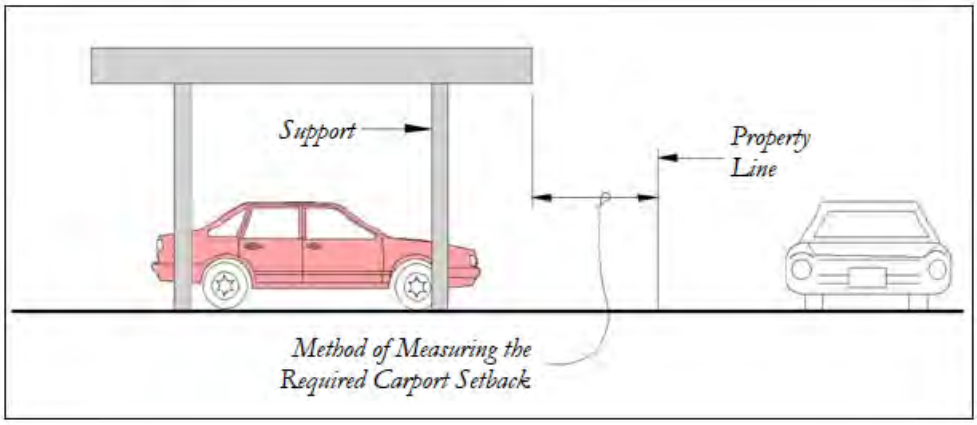
No more than one (1) carport shall be permitted for each dwelling unit.

(c) *Carport condition and maintenance*

All carports shall be kept in an attractive state, in good repair, and in a safe and sanitary condition.

(d) *Setbacks and exceptions*

Illustration 5.11.1(a)
Carport Setback Measurement



No portion of a carport shall violate a required side setback as prescribed within these Regulations with the exception that open eaves may extend two (2) feet into the side setback as prescribed in Section 5.6.2 Projections into Required Setbacks provided that carports may not be located less than five (5) feet from the side property line under the following conditions:

(1) Guttering shall be installed and maintained in a manner to prohibit any increase of water run-off onto the adjacent property;

(2) The proposed carport may not be located over a utility easement paralleling the side property line; unless the affected utilities agree to it in writing and the following provision must be agreed to by the applicant for the building permit and the property owner, if different from the applicant:

a. In the event access is required to the dedicated easement by the city or any franchised public utility, the property owner shall be responsible for relocating the carport structure in a manner to allow such access.

b. The property owner shall be notified of the need to relocate said carport and from that point in time have seventy-two (72) hours to do so. If the property owner cannot or refuses to relocate said carport, the city or franchised public utility may have said carport relocated at the owner's expense.

c. The property owner shall not hold the city or franchised public utility responsible for any damages to said carport or property due to the required relocation.

(e) *Front setbacks and exceptions*

(1) All carports shall comply with setback requirements of these Regulations.

(f) *Corner lots*

(1) The carport must be constructed in such a manner as not to obstruct sight distance at the intersection. Damage to any public utility associated with the carport shall be the responsibility of the property owner.

(g) *Paved hard surfaced drive*

(1) All carports shall be located only over a paved hard surfaced drive meeting the requirements of Section 5.3.2 Off-Street Parking Standards. Those properties currently approved with a residential building permit, whether for a new home, addition, remodel, or house move-in that have been required to install a paved driveway as part of their permit approval, or any other regulations pertinent to the approved building permit shall not be exempt from the requirement to install paved driveways.

(h) *Carport width*

(1) Except upon application to the Community Development Department, no carport shall exceed twenty-four (24) feet in width.

(2) The Community Development Director or their designee may approve an application for a width greater than twenty-four (24) feet if the carport will be architecturally integrated with the residence. If the Community Development Director or their designee determines that the carport in excess of twenty-four (24) feet in width is not architecturally integrated with the home, the application may be appealed to the Council for final determination.

(3) An example of architectural integrity would be where a property owner wishes to match his carport with the existing house eaves and the total width exceeds twenty-four (24) feet.

(i) *Standards for constructing carports*

(1) Poles supporting the carport shall be wrought iron or clad in a material compatible with the exterior finish of the structure.

(2) Exposed eaves shall have rain guttering directing water flow to the street and away from adjacent properties.

(3) Construction of carports shall be with the following provisions:

a. Roof slopes shall exceed two (2) inches in twelve (12) inch pitch;

b. All eaves shall be enclosed and have rain guttering installed to divert water to the street and/or away from adjacent properties unless the pitch of the roof diverts the flow of rainwater to the street;

c. The roof and exterior finishes shall be compatible with the exterior of the primary structure;

d. The underside of the carport shall be enclosed with an approved material.

(j) *Carport design: open sides and latticework required*

(1) All carports, observing the required front setback, shall be permanently open on two (2) sides from grade surface to eaves line or may install latticework along one side of the carport.

a. Such latticework, when installed, shall be a framework of ornamental design made of strips of wood, plastic, nylon or other material as approved by the chief building official. Such latticework shall be of a design so as not to impair the vision of the operator of the vehicle exiting the carport from any vehicular/pedestrian traffic along the abutting sidewalk and/or roadway.

b. Also, such latticework shall be of a design to permit the continued circulation of air and light within the carport.

5.11.2 *Documentation*

(a) *Proof of building permit*

It shall be unlawful for any person being the current owner of property that has a carport constructed after January 1, 2000 to fail to have proof of a building permit issued by Shenandoah for the carport.

(b) *Location of proof*

The proof can be the permit in his possession or in the address files of the community development department.

(c) *Application required when lack of proof*

If the property owner fails to provide proof of such permit, or proof of construction prior to the date in paragraph (a) above, or if no permit was previously requested on the carport, the property owner shall make application as required within this Section 5.11.1 Carport Requirements.

(d) *Carport removal required*

If after application and inspection it is found that the subject carport is not in compliance, no permit shall be issued and the owner/applicant shall cause the non-conforming carport to be removed. If the owner/applicant fails to make the corrections or have the non-conforming structure removed, the city may proceed as required by law.

5.12 Exterior Construction and Design Requirements

5.12.1 *Exterior Construction Requirements and Standards*

All buildings shall have the minimum percentage, as indicated in Table 3.2 Area Regulations and Standards for Residential Districts and Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts. "Summary of Density & Dimensional Requirements for Residential Zoning Districts," of their total exterior walls below the fascia board at the roof line on single-family,

two-family, multi-family or non-residential structures in residential districts, excluding doors and windows, constructed of stone or standard-size full-width brick.

(a) *Exceptions*

Masonry requirements do not apply above the plate line or trim work, such as gables and soffits.

(b) *Temporary construction buildings*

Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the city and subject to periodic renewal.

(c) *Procedure for determining alternative exterior materials*

(1) All written requests for alternative exterior building materials shall be noted and described on the site plan. If requested by the city, a sample(s) of the proposed exterior finish material(s) may be required to be submitted with the site plan.

(2) The City may approve an alternative exterior material if it is determined to be equivalent to or better than the exterior materials cited in the section above as part of the approval of the site plan.

(3) Consideration for exceptions to the above requirements shall be based on the following:

a. Architectural design and creativity,

b. Compatibility with surrounding developed properties,

c. Compatibility with the overall character of the city, and

d. Compatibility with historic character of the city.

(4) The request shall be approved or disapproved by the City Administrator. The City Administrator or designee's decision may be appealed to the Council.

(5) Requests for exceptions to the masonry requirement contained in this section rather than approval of an alternate material shall meet the requirements of Section 5.12.5(a)(4) Masonry Exceptions for Residential and Non-Residential Structures.

(d) *Wall façade articulation*

In order to ensure the aesthetic value and visual appeal of non-residential land uses and structures, façade articulation shall be required.

(1) Wall facade articulation of at least three (3) feet in depth or offset shall be required for every twenty-five (25) feet in horizontal surface length.

(2) Wall facade offsets shall be shown, along with calculations verifying that the building elevations meet the above requirement, on a building facade (elevation) plan, and shall be submitted for Commission review along with the site plan.

(3) Buildings smaller than fifteen thousand (15,000) square feet shall be exempt from wall facade articulation.

5.12.2 *Masonry Materials Defined*

The term "masonry construction" as used herein includes all construction of stone material, brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction. The standards for masonry construction types are listed below:

(a) *Stone Material*

Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.

(b) *Brick Material*

Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material. Unfired or under-fired clay, sand, or shale brick are not allowed.

(c) *Stucco or Alternative Stucco Appearing Materials*

An appropriate mixture of cement, sand, lime, and water (e.g., Portland cement plaster) as determined by the Director of Community Development or his or her designee or Building Code.

(d) *Concrete Masonry Units*

Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish as approved by the Commission. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.

(e) *Concrete Panel Construction*

Concrete finish, pre-cast panel, tilt wall, or cement composition reinforced panel construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.

(f) *Fiber-Cement Siding*

Fiber-cement siding is composed of cement, sand, and cellulose fiber that has been autoclaved (cured with pressurized steam) to increase its strength and dimensional stability. The fiber is added as reinforcement to prevent cracking. This material is not considered masonry and cannot be utilized in the calculations of masonry. It may however be used as an accent material.

(g) *Glass and Metal Standards*

Glass walls shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.

5.12.3 *Minimum Masonry Requirements for Residential Structures in Residential Districts*

(a) *Masonry Required*

All buildings shall have the minimum percentage, as indicated in Table 3.2 Area Regulations and Standards for Residential Districts of their total exterior walls excluding a rear facing wall below the fascia board at the roof line on single-family, two-family, multi-family or non-residential structures in residential districts, excluding doors and windows, constructed of stone or standard-size full-width brick.

(b) *Masonry Exemption*

If a new single-family detached residential dwelling is located on a lot of official record prior to January 1, 2011, the dwelling shall be exempt from the masonry requirements in all zoning districts requiring same, only if one of the following applies:

(1) When 50% or more of the total lots on the same side of the street between intersecting streets have primary structures on them without masonry, then the remaining properties are exempt from the masonry requirements.

(2) When more than 50% of the total lots on the same side of the block on the street upon which a new dwelling is to be placed, measured from the block's intersecting streets, are developed with residential structures that do not meet this requirement and have less than the required amount of masonry, the new structure or addition shall contain at least 50% masonry or more shall be provided in accordance with these regulations.

(c) *Masonry on Additions*

When an addition is proposed for an existing single-family, duplex, or multi-family residence which has an exterior masonry surface, the addition shall have an exterior masonry surface equal to or greater than the percentage of exterior masonry of the existing dwelling; except that an addition made to the rear of an existing structure which has an exterior masonry surface on the front yard facing only shall be exempt from any masonry requirements. In no case shall the total amount of masonry content on the dwelling, after the addition has been made, be required to exceed the minimum required in that zoning district.

(d) *Rehabilitation*

When rehabilitation is made to an existing single-family, duplex, or multi-family dwelling, the structure shall have an exterior masonry surface, after rehabilitation, equal to or greater than the percentage of exterior masonry surface prior to rehabilitation. In no case shall the total amount of masonry content on the dwelling, after rehabilitation has been made, be required to exceed the minimum required in that zoning district.

(e) *Accessory Buildings and Detached Garages*

Detached accessory buildings or buildings designed and/or used as a garage with a separate slab or foundation from the main structures shall have the same percentage of masonry content as the main structure when permitted and/or constructed simultaneously with the main structure. In no case shall the amount of masonry content on the accessory building be required to be in excess of the minimum required by the zoning district in which the accessory building is located, regardless of percentage of masonry content of the main structure. Fiber-cement siding may be used to meet the masonry requirements on such detached accessory buildings and garage. Residential detached accessory structures less than 120 square feet do not have to meet the masonry requirement in the section but shall comply with the building construction requirements of Section 3.0 Area Regulations, Chart and Standards of these Regulations.

(f) *Multi-Family Development*

For Multi-Family development, exceptions to the material requirements may be permitted on a case-by-case basis. A site plan, elevation drawings and alternative material samples shall be submitted to the Development Review Committee (DRC) for consideration. The DRC shall review the submittal for the following factors:

(1) If the site is located in a Planned Development, the site plan shall conform to all provisions of the Planned Development Ordinance.

(2) The exception or site plan conforms to all other provisions of this code.

(3) The proposed architectural style and building materials are compatible with development on adjacent and nearby development.

(4) Additional landscaping, screening and quality alternate materials have been provided, where necessary, to create a development of similar quality to adjacent and nearby development.

5.12.4 *Minimum Masonry Content for Non-Residential Structures In Non-Residential Zoning Districts*

(a) *When property is zoned for non-residential uses excluding Industrial Uses, every wall (excluding doors and windows) shall be meet the masonry requirements of Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts*

(1) Walls adjacent to any street right-of-way, regardless of setback, shall be constructed of hard fired (kiln fired), stacked in place, mortared joints, face or building brick with a 6-14 minimal nominal depth of depth of three (3) inches, or stone.

(2) Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard and durable all weather stone. Ashlar, cut stone, and dimensional stone construction techniques are acceptable.

(3) The remaining walls may be constructed of brick or stone as previously described, splitfaced, fluted, sandblasted or textured concrete masonry units, or exposed aggregate, textured or sandblasted tilt wall.

(b) *Additions*

Additions to buildings erected legally of materials other than those listed above may be constructed of the same materials as the original building, provided the addition or additions do not exceed 50% of the area of the original building.

5.12.5 *Minimum Masonry Requirements For Non-Residential Structures Located In The LI, I-2 and I-3 Zoning Districts*

(a) *When property is zoned Light Industrial (LI) every wall facing or visible from a street right-of-way shall be of masonry construction or glass and shall meet the requirements of Table 3.3 Area Regulations and Standards for Mixed Use and Non-residential Districts:*

(1) Masonry construction shall include all masonry construction, which is composed of solid, cavity, faced, or veneer-wall construction.

(2) Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard and durable all weather stone. Ashlar, cut stone, and dimension stone construction techniques are acceptable.

(3) Concrete panel construction as defined in Section 5.12 Exterior Construction and Design Requirements may also be used to meet the masonry requirement.

(4) Masonry Exceptions for Residential and Non-Residential Structures

Masonry Exceptions to the material requirements may be permitted on a case-by-case basis. A site plan, elevation drawings and alternative material samples shall be submitted to the Development Review Committee (DRC) for consideration.

(b) *Planned Developments*

If the site is located in a Planned Development, then the site plan shall conform to all provisions of the Planned Development Ordinance.

(c) *Approval Criteria*

The DRC shall review the submittal for the following factors:

(1) The exception or site plan conforms to all other provisions of this Code.

(2) The proposed architectural style and building materials are compatible with development on adjacent and nearby development. Fiber-cement siding is preferred to wood siding for durability.

(3) Additional landscaping, screening and quality alternate materials have been provided, where necessary, to create a development of similar quality to adjacent and nearby development.

(d) *Approval*

A submittal that does not conform to criteria "a" and "b.1" may not be approved. The DRC will make a determination of whether criteria "C" and "b.2"& "b.3" has been complied with and whether to grant the exception. The DRC's decision may be appealed to the Commission. The Commission's decision may be appealed to Council.

5.13 Single-Family Anti-Monotony Standards

Uniqueness of a neighborhood is developed by all the homes not being the same, in regards to building materials, size, floor plans, front facades, etc. In an effort to help promote ownership, neighborhood pride, and encourage long-term commitment, homes should be individual and definable rather than replicas of the adjacent homes.

5.13.1 *Applicability*

(a) *Zoning Districts*

(1) The regulations within this section apply to single-family residential developments.

5.13.2 *Exterior Construction Requirements and Standards*

All new single-family residential developments shall meet the following requirements:

(a) *Minimum Roof Pitch (Mandatory for all homes)*

A minimum 5:12 roof pitch shall be required for each primary structure with gable of hip roofs.

(b) *Front Facades or Elevations*

No single front facade of a home may be duplicated within six (6) lots as measured along the curb line.

(c) *Varying Front Setbacks*

At the time of the final platting variations of the front setback of five (5) feet shall be allowed as long as one lot has a front setback with an additional five feet for each one with five feet less that the setback required in Table 3.2 Area Regulations and Standards for Residential Districts. Such setback variation shall be noted on the final approved plat.

(d) *Covered Front Porch*

A front covered porch that is permanently attached to and an integral part of the primary structure constructed of like and similar materials to those of the primary structure can be allowed to encroach into the minimum required front setback in accordance with Section 5.6.2 Projections into Required Setbacks. Each covered front porch encroaching on the front setback shall be a maximum one hundred fifty (150) square feet, have a maximum encroachment from the primary structure of eight (8) feet and not exceed one-story in height.

(e) *Front Wall Massing*

There shall be no uninterrupted wall length for twenty (20) feet along any front façade of the

dwelling unit.

(f) *Architectural Relief Required*

No single-family primary structure shall provide for more than one (1) side that contains fewer than four (4) outside corners.

Illustration of Prohibited Design

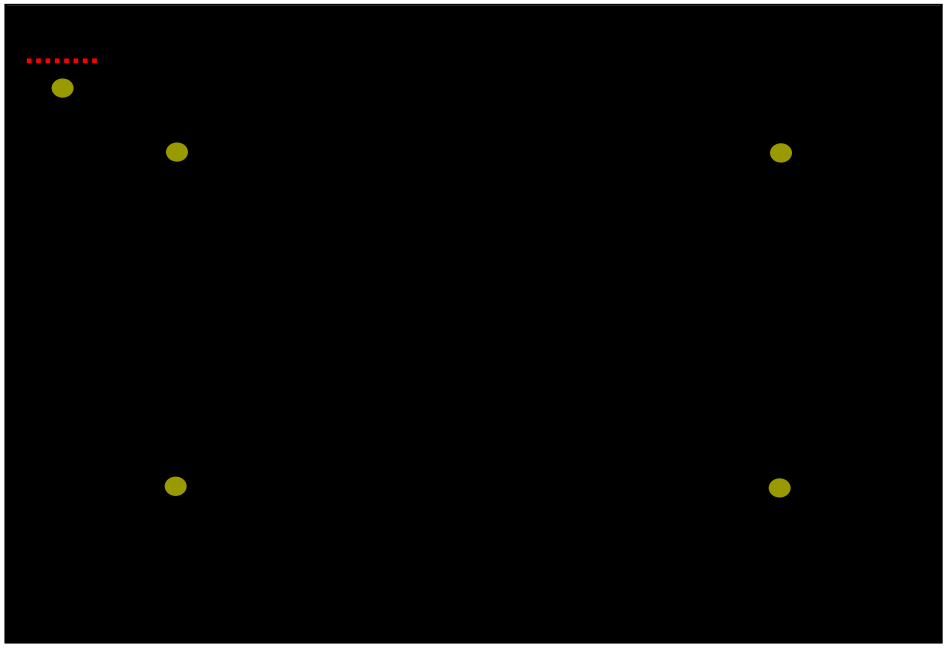
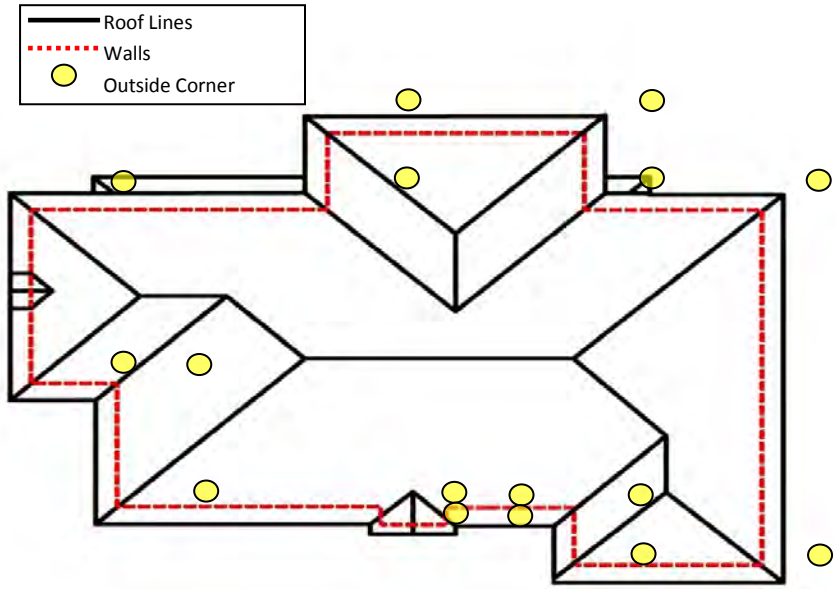


Illustration of Allowed Design



Architectural relief will be required by allowing only one side of a two-story single-family house to have fewer than four (4) outside corners.
Outside corners are shown with a yellow circle.

(g) *Architectural Focal Point*

One of the following architectural focal points should be incorporated into each housing unit.

(1) Chimney. The exterior veneer of a chimney constructed as part of or an extension to the exterior wall of a residential structure must be constructed of like or similar brick or other masonry material to that of the primary structure. The exterior veneer of chimneys shall not be constructed of wood or lumber products.

(2) Window Enhancements. The use of transoms, bay windows, stained glass, or other similar window enhancements.

5.14 Residential Cluster Development Option

Cluster development is intended to provide open space, accessible to the public, for residential development by allowing reductions to the minimum lot size to either maintain or increase overall density.

Cluster developments can concentrate dwelling units on a site's prime developable areas and thus can provide more land for preserving drainage areas, slopes, soils, and natural vegetation to help manage stormwater runoff and soil erosion. Additionally, development costs can be reduced by the reduction amount of roadway and utility infrastructure needed to service the neighborhood.

Cluster development is an incentive based approach to encourage livable neighborhoods and is not a requirement. This approach promotes the creation or preservation of open space in exchange for increasing the amount design options through reduced or eliminated minimum lot sizes. Cluster development can either be designed to maintain the original development density or to increase development density.

5.14.1 *Applicability*

(a) *All new single-family residential development*

All new single-family residential developments may utilize a cluster development option.

5.14.2 *Minimum Required Area for a Cluster Development*

(a) *Two acre minimum*

The minimum area of a cluster development shall be two (2) acres.

5.14.3 *Development Requirements*

(a) *Principal and accessory uses*

All principal and accessory uses authorized with the applicable zoning district shall be allowed in the cluster development.

(b) *Requirements applying to entire site rather than any lot*

Maximum coverage and parking requirements shall be applied to the entire site rather than to any individual lot.

(c) *No minimum lot size, lot width, lot depth, house size, or side or rear setback*

(d) *No minimum measurement shall apply to the following standards*

(1) Lot size.

(2) Lot width.

(3) Lot depth.

(4) House size.

(5) Side or rear setbacks.

(e) *Minimum setback required adjacent to street right-of-way*

A minimum setback adjacent to a street right-of-way shall be twenty-five (25) feet. If rear alleys are provided, then the setback shall be reduced to ten (10) feet.

(f) *Minimum building separation*

A minimum building separation between that principal building and all structures shall be ten (10) feet.

(g) *Minimum street frontage per lot*

Each lot shall have a minimum twelve (12) feet of street frontage.

5.14.4 *Site Plan Required, Additional Site Plan Contents, and Review*

(a) *Site plan required*

A site plan as outline in Section 7.5 Site Plan shall be required for all cluster developments.

(b) *Additional site plan contents*

The following contents shall be included on a site plan, in addition to the requirements in Section 7.5 Site Plan.

(1) The maximum number and type of dwelling units proposed.

a. The area of the site on which dwelling units will be constructed.

b. The calculation of the permitted number of dwelling units (see Section 5.14.7 Calculating the Permitted Number of Dwelling Units).

c. The area of the site on which other principal or accessory uses will be constructed.

d. The areas of the site designated for open space and their size.

e. The number of acres proposed to be conveyed as open space.

(c) *Council approval of cluster development site plans required.*

The Council after recommendation by the Commission shall review and approve a residential cluster development in the manner provided for in Section 7.5 Site Plan.

5.14.5 *Amount of Open Space Required for Cluster Development*

(a) *Minimum amount of open space required*

A cluster development shall have twenty-five (25) percent of the site conveyed as open space.

5.14.6 *Amount of Permitted Dwelling Units for Cluster Development*

(a) *Number of clustered dwelling units equal the number of permitted dwelling units under the base zoning district*

Except as provided in Section 5.14.8 Density Bonus for Additional Open Space below, the maximum number of dwelling units proposed for a residential cluster development shall not exceed the number of dwelling units permitted for the residential zoning district in which the parcel is located.

5.14.7 *Calculating the Permitted Number of Dwelling Units*

(a) *Measure the gross area of the development site*

The gross land area of the entire site shall be measured to the tenth of an acre.

(b) *Apply base zoning districts gross dwelling unit per acre (DUA)*

The gross land area shall be multiplied by the gross dwelling unit per acre as described within each district in Section 2.0 Zoning Districts. The resulting number of dwelling units shall be rounded to the nearest whole number.

5.14.8 *Density Bonus for Additional Open Space*

(a) *Density bonus may be approved by the Council*

The Council upon recommendation of the Commission may approve a density bonus up to fifteen (15) percent of permitted number of dwelling units and the related reduction of minimum lot sizes under the following conditions.

(1) The amount of open space is at least thirty-three (33) percent of the gross land area.

(2) Open space is conveyed to the pursuant to Section 5.14.11 Conveyance of Open Space.

(3) Open space is accessible to the public.

5.14.9 *Council Review Criteria*

(a) *Satisfies the requirement of this section*

The site plan satisfies the requirements of this section.

(b) *Twenty-five (25) percent open space requirement is met*

Buildings and structures are adequately grouped so at least twenty-five (25) percent of the total area of the site is set aside as open space. To the greatest degree practicable, common open space shall be designated as a single block and not divided into unconnected small parcels located in various parts of the development.

(c) *Pedestrian access*

Pedestrians can easily access common open space.

(d) *Minimization of land alteration*

Individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation, and topography.

(e) *Scenic views*

Existing scenic views or vistas are permitted to remain unobstructed, especially from public streets.

(f) *Historic preservation*

The site plan accommodates and preserves any features of historic, cultural, or archaeological value.

(g) *Preserving environmentally sensitive areas*

Floodplains, wetlands, and areas with slopes in excess of ten (10) percent are protected from development.

(h) *Consistent with intent of these Regulations and the comprehensive plan*

The cluster development advances the purposes of these Regulations and the comprehensive plan.

5.14.10 Council Decision

(a) *Approval of cluster development*

If the Council upon recommendation of the Commission finds that the requirements in Section 5.14.9 Council Review Criteria are satisfied, it may approve the residential cluster development, subject to any special conditions.

(b) *Special conditions to residential cluster development*

The Council may, in its opinion, apply such special conditions to its approval of a residential cluster development as may be required to maintain harmony with neighboring uses and to promote the objectives and purposes of these Regulations, subdivision ordinance, and/or the comprehensive plan.

5.14.11 Conveyance of Open Space

(a) *Procedures*

Open space provided by a residential cluster development shall be conveyed as follows:

(1) City of Shenandoah. To the City of Shenandoah and accepted by it for park, open space, agricultural, or other specified use or uses, provided that the conveyance is approved by the City Council and is in a form approved by the City Attorney.

(2) Nonprofit. To a nonprofit organization whose principal purpose is the conservation of open space, to a corporation or trust owned or to be owned by the owners of lots or dwelling units within the residential cluster development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. The conveyance shall be approved by the Council and shall be in a form approved by the City Attorney.

a. In any case, where the common open space in a residential cluster development is conveyed, a deed restriction enforceable by the City of Shenandoah shall be recorded that provides that the open space shall:

1. Be kept in the authorized conditions(s); and
2. Not be developed for principal uses, accessory uses (e.g., parking), or roadways.

5.15 Infill Housing Exception to Minimum House Size

5.15.1 Infill Definition

Infill/redevelopment housing is defined as new housing construction on existing lots that are less than one acre in size. Furthermore, at least eighty (80) percent of the land within a three hundred (300) foot radius of the infill/redevelopment site must be developed and water, sewer, streets, schools, and fire protection must be provided/available.

5.15.2 Infill Minimum House Size Exception

Where the adjacent homes are smaller than the minimum, new homes shall have a minimum house size equal to the average house size of the five (5) closest single-family homes.

5.16 Retaining Walls

5.16.1 *Compliance with Standard Engineering Practices and the Subdivision Ordinance*

All retaining walls must comply with standard engineering practices and the **Subdivision Ordinance of the Shenandoah Code of Ordinances**.

5.16.2 *Retaining Wall Height*

Any wall higher than two (2) feet shall either comply with Shenandoah Standards or be designed by a professional engineer and have the engineer's seal. Those walls exceeding two(2) in height and not complying with Shenandoah standards must have an engineer's signature and seal.

5.16.3 *Retaining Wall Measurement*

The wall shall be measured from the top of the footing to the top of the wall.

5.16.4 *Retaining Wall Permit*

A permit must be applied for and approved before construction on any retaining wall is started. A retaining wall will not require a permit if shown and approved on a site plan.

5.16.5 *Compliance with Standard Engineering Practices*

Failure to comply with this section may result in legal action and/or removal of the wall.

5.17 Outdoor Lighting and Glare Prevention

5.17.1 *Purpose and Application*

(a) *Purpose*

Standards for controlling lighting and glare are set forth to reduce annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby properties by their owners and occupants while requiring adequate levels of lighting for non-residential areas, such as parking lots.

(b) *Applicability*

All non-residential developments shall submit a lighting plan. The lighting plan shall show how the proposed development will comply with the regulation within this Section.

5.17.2 *Lighting Plan*

(a) *Lighting plan application submittal*

An application for a lighting plan shall be submitted and approved or denied by the Community Development Director or their designee as part of a site plan, Section 7.5 Site Plan.

(1) Elements of a lighting plan.

a. The type of illuminating devices, fixtures, lamps, supports, reflectors and other devices, and their respective location on the site;

b. A description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices (such as catalog cuts by manufactures and drawings); and

c. Photometric data, such as furnished by manufactures, or similar data showing the angle of cut off or light emissions.

(2) The lighting plan shall show such information in sufficient detail to enable the Community Development Director or their designee to readily determine whether the lighting plan is in compliance with the requirements within these Regulations.

a. If the Community Development Director or their designee cannot readily make this determination, then the applicant shall be required to submit reports of tests performed and certified by a recognized testing laboratory. Such reports must provide sufficient evidence such that the Community Development Director or their designee is thereby able to ensure compliance.

5.17.3 General Regulations

(a) *Maintenance*

(1) Structure. Piers for light poles taller than eight (8) feet shall be designed by a licensed engineer competent in structural engineering. Soil condition and wind loading shall be accounted for in the pier design. Quality and Appearance. All fixtures and supports shall be painted or otherwise treated to resist rust and corrosion and shall be maintained in an attractive condition and in a manner consistent with the surrounding architecture.

(2) Condition. All fixtures and lamps shall be maintained in a working, serviceable condition at all times.

(b) *Glare – direction and intensity*

(1) Glare. Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent properties.

(2) Height across property lines. All outside lights shall be made up of a light source and reflector that acting together the light beam is controlled and not directed across any bounding property line above a height of three (3) feet.

(3) Maximum intensity. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.5 foot candles, except as may be otherwise specified for specific lighting situations.

(c) *Lighting Units*

(1) General. Light sources shall be of a down-light, indirect, diffused, or shield type or so installed and maintained as to reduce glare effect and consequent interference with the use of adjacent properties and boundary streets.

(2) Temporary holiday lighting. Bare bulbs above fifteen (15) watts or strings of lamps are prohibited except for temporary holiday lighting not exceeding forty-five (45) days per year.

(3) Appearance and height. Standards, poles, and fixtures shall be of a single color compatible with the architecture of the building(s) served. The height of such standards, poles, and fixtures, excluding those mounted on a building, shall not exceed the height of the highest roofline of the building(s) within the site, except as provided in Section 5.17.3(d) Recreational area lighting and in Table 5.17.4.(b)(3) Mounting Heights for Lighting in Parking Areas**.**

(d) *Recreational area lighting*

(1) Height. Lighting for recreational uses (which include athletic courts and fields) may employ standards, poles, and fixtures in excess of the heights prescribed in Section 5.17.4 Non-residential and Mixed Use Regulations.

(2) Living screen required. Where recreational uses are adjacent to residential uses, separation by streets notwithstanding, and such recreational use is illuminated in such a manner as to produce a light intensity in excess of 0.5 foot candles at the property line of the residential use, a living screen shall be required in accordance with the following.

a. A variety of trees which normally grow to or in excess of a height of forty (40) feet shall be provided.

b. Trees shall be planted no more than thirty (30) feet on center along the property line abutting the residential use.

c. The tree variety shall maintain a crown width sufficient to form a continuous screen at height between ten (10) feet and thirty (30) feet above grade.

d. Such trees shall be a minimum of one-third (1/3) the required height at the time of planting

(e) *Thoroughfare lighting*

(1) Exemption. Lighting provided by governmental entities for safe travel upon public thoroughfares is expressly empted from compliance with this Section 5.17 Outdoor Lighting and Glare Prevention.

5.17.4 *Non-residential and Mixed Use Regulations*

(a) *Site lighting*

(1) General requirement. All off-street parking areas for non-residential and mixed uses that are used after dark shall be illuminated beginning thirty (30) minutes after sunset.

(b) *Parking and loading lighting*

(1) General requirement.

a. Non-residential uses which abut residential districts shall be required to reduce illumination of parking areas by at least fifty (50%) at the termination of hours of use. In case only a portion of a parking area is offered for use after dark, only that part is required to be illuminated in accordance with these standards. However, the portion offered for use shall be clearly designated.

b. Illumination of parking areas shall be sufficient to ensure the visibility of pedestrians and the safe movement of traffic within the site.

(2) Intensity. The level of intensity of illumination, measured at a height of three (3) feet above the pavement surface, shall be a minimum average of two (2.0) foot candles, and a minimum level at any point of least 0.66 foot candles.

(3) Mounting height. The mounting height of lighting fixtures shall not exceed the heights specified in Table 5.17.4.(b)(3) Mounting Heights for Lighting in Parking Areas**.**

(4) Appearance. Standards, poles, and fixtures shall be of a single color, compatible with the architecture of the building.

Table 5.17.4(a) Mounting Heights for Lighting in Parking Areas	
Width of Parking Area	**Maximum Lighting Unit Mounting Height**
Zero – 60 Feet	14 Feet
61 – 102 Feet	20 Feet
103 Feet or Greater	30 Feet

(5) Type of fixtures.

a. All lighting fixtures shall be restricted to down-light or cut-off types.

b. Low-pressure sodium lighting or lighting of similar color shall not be used.

(c) *Walkway Lighting*

(1) Intensity. All outdoor pedestrian areas and uncovered walkways, separate from parking areas or buildings but essential to the to the nighttime operation of non-residential uses within non-residential districts, shall be continually illuminated between sunset and sunrise.

a. The level of intensity of illumination, measured at the walkway surface, shall be a minimum average of 0.8 foot candles.

(2) Mounting height. The mounting height of lighting fixtures shall not exceed twelve (12) feet.

(3) Type of fixtures. Pole-mounted and wall-mounted fixtures mounted above six (6) feet shall be of a down-light or cut-off type.

(d) *Accent and Security Lighting*

(1) Accent lighting. Up-lighting shall be concealed or otherwise positioned in such a manner that the light source cannot be seen from any property line of the site on which the light is located.

(2) Security lighting.

a. Pole-mounted and wall-mounted fixtures mounted above six (6) feet shall be of a down-light or cut-off type.

b. If a rear yard security light is mounted higher than ten (10) feet, it shall be directed away from adjacent properties.

5.17.5 *Approval of Alternatives*

(a) *Approval of alternative lighting plan*

An application for administrative approval of an alternative lighting plan shall be submitted and acted upon in accordance with Section 5.17 Outdoor Lighting and Glare Prevention. The Community Development Director or their designee may approve an alternative lighting plan, based upon a finding that the proposed alternative meets the spirit and intent of this Section.

Section 6.0 Development Review Bodies

It is the intent and purpose of these provisions to establish certain boards and commissions to facilitate administration, review, and amendment of these Regulations. This section prescribes the composition of such boards and commissions, sets for their terms of membership, and prescribes their responsibilities and authority.

6.1 City Council

6.1.1 *City Council Authority*

The Council, after receiving a recommendation by the Commission and after public hearings required by law, may amend, supplement, or change these Regulations or the boundaries of the zoning districts on the Zoning Map. The Council may from time to time amend, supplement or change by ordinance the text of this Zoning Ordinance on its own initiative or upon petition for a text amendment.

6.1.2 *Final Authority for Deciding Applications and Appeals*

The Council shall make the final decision on the following applications and appeals.

Table 6.1.2 (a)
Zoning map amendment (rezoning)
Zoning regulations amendment
PDD application
Site Plan (rezoning and residential cluster development), with the exception of site plans submitted at the time of building permit application
Special Use Permit
Mixed Use Overlay District Concept Plan
Comprehensive Plan adoption or amendment
Appeal of a site plan decision made by the Community Development Director or their designee
Appeal of a Vested Rights Petition decision made by the Community Development Director or their designee

6.1.3 *Applications Forwarded to the City Council*

After recommendation by the Commission, all zoning applications shall be automatically forwarded to the Council for a public hearing following appropriate notification as prescribed in Section 6.1.2 Final Authority for Deciding Applications and Appeals.

6.1.4 *City Council Action on Zoning, Rezoning or Text Amendment Requests*

After a public hearing is held before the Council regarding the zoning application, the Council may:

(a) *Approve*

Approve the request in whole or in part.

(b) *Modify*

Modify and approve the request to any more restrictive uses, area requirements, restrictions or zoning district than was requested in the original application and included in the advertised and written notice. In no case, however, may a use, area requirement or restriction that is considered less restrictive or a less restrictive zoning district than was requested in the original application and included in the advertised and written notice be approved.

(c) *Deny*

Deny the request in whole or in part

(d) *Table*

Table the application to a future meeting specifically citing the Council meeting date to which it is tabled, or

(e) *Refer Back*

Refer the application back to the Commission for further study.

6.1.5 *Final Approval and Ordinance Adoption*

Upon approval of the zoning request by the Council, the applicant shall submit all related material with revisions, if necessary, to the City Administrator or his/her designee for the preparation of the amending ordinance. The amending ordinance will be prepared for adoption when a correct description and all required exhibits have been submitted to the City Administrator or his/her designee. The amending ordinance will not be effective until at such time that it is adopted by the Council, signed by the Mayor, and attested by the City Secretary and published in accordance with State law.

6.2 Planning and Zoning Commission

6.2.1 *Creation of Planning and Zoning Commission*

There was created, in accordance with Chapter 211 of the Texas Local Government Code and Section 2-151 of the Shenandoah Code of Ordinances, the "Planning and Zoning Commission," referred to as the "Commission," which consists of five (5) members. In addition to the Requirements of Chapter 2 of Division 2 of the Code of Ordinances, the Commission shall function according to the following criteria that establish membership and operating procedures.

6.2.2 *Powers and Duties*

(a) *Authority*

The Commission shall have all the rights, powers, privileges and authority authorized and granted by the Council and the Statutes of the State of Texas including those authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code and Section 2-154 of the Shenandoah Code of Ordinances, as amended from time to time.

(b) *Duties*

The Commission shall be an advisory body and adjunct to the Council, and shall make recommendations regarding amendments to the Comprehensive Plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and shall consider approval of plats of subdivisions as may be submitted to it for review and other planning related

matters. The Commission shall conduct an annual review of the City's Comprehensive Plan and shall be prepared to make recommendations to the Council as deemed necessary to keep the City's Comprehensive Plan current with changing conditions and trends and with the planning needs of the City. The Commission shall also serve in an advisory capacity on any planning related item(s) in the City and perform other duties as provided for by the City Charter.

(c) *Zoning Commission*

The Commission shall also act as the Zoning commission, which shall have the power to prepare and to recommend to the Council for adoption a zoning plan to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residences, and other purposes.

6.2.3 *Membership*

(a) *Number of Members and Residency*

The Commission, in accordance with Section 2-151 shall be composed of five (5) members.

(b) *Appointment*

Members shall be in accordance with Section 2-151.

(c) *Merit and Service*

The members of the Commission shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation as hereinafter provided.

6.2.4 *Term of Members*

(a) *Term*

All appointments to the Commission shall be for a term of three (3) years or until their successor takes office. Members may be reappointed with no limitation on the number of terms one member may serve.

(b) *Removal of a Member*

Members of the Commission may be removed from office at any time by a simple majority vote of the full Council either upon its own motion or upon recommendation of the Commission. Members may be removed by the Council for inefficiency, neglect of duty, or malfeasance in office. A vote to remove a Commission member shall be placed on the appropriate agenda as a regular item, and shall be voted upon accordingly.

(c) *Absences*

Failure to attend three (3) consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to circumstances beyond the member’s control such as sickness of the member or someone within the member's immediate family, or if the Commission or Council approves the absence(s) as excused.

(d) *Vacancies*

Vacancies occurring otherwise than through the expiration of terms shall be filled only for the unexpired term. Any vacancy(s) on the Commission shall be filled via appointment by the Council.

6.2.5 *Officers of Commission*

The Commission shall elect a Chairperson and a Vice-Chairperson from among the Commission membership, and each officer shall hold office for one (1) year or until replaced by a vote of the Commission. The City Administrator or designee shall serve as Secretary to the Commission, and shall keep minutes of all meetings held by the Commission as well as the full record of all recommendations made by the Commission to the Council.

6.2.6 *Organization and Rules*

(a) *Membership*

The members of the Commission shall regularly attend meetings and public hearings of the Commission, shall serve without compensation, and shall not hold any other office within, or serve as an employee of, the City while serving on the Commission.

(b) *Regular meeting*

The Commission shall meet a minimum of once per month at a time established by the Council. If there have been no applications filed for review by the Commission, the City Secretary shall notify the Chairman and no meeting shall be required for that month.

(c) *Adoption of rules and records*

In accordance with Section 2-151, the Commission shall have the power to make rules and regulations for its own governance. Such regulations and rules shall include, among other items, provisions for the following:

(1) Regular and special meetings, open to the public;

(2) A record of its proceedings, to be open for inspection by the public;

(3) Reporting to the Mayor and Council and the public, from time to time and annually; and

(4) Reviewing the Comprehensive Plan on a regular basis.

6.2.7 *Parliamentary Procedure, Quorum; Voting and Use*

(a) *Parliamentary Procedure*

The Commission will follow the parliamentary procedure adopted by the Council, and procedures shall not be in conflict with the laws applicable to the Commission on the following.

(b) *Recommendation from the Quorum*

The Commission must make a recommendation on any issue they are asked to review before it can be sent to the Council. For a recommendation to be made to the Council it must be agreed upon by a majority of the Commission present at the meeting. With tie votes, no recommendation is forwarded to the Council. A denial of a motion to deny is not a recommendation.

(c) *Quorum*

A quorum shall consist of a majority of the membership of the Commission, and any issue to be voted upon shall be resolved by a majority of those members present.

(d) *Voting*

All Commission members, including the Chairperson, shall be entitled to one vote each upon any question, a quorum being present.

(e) *Conflict of Interest*

If any member has a conflict of interest regarding any item on the Commission's agenda, that member may remove himself or herself from the room and shall refrain from discussing and/or voting only on the item for which a conflict exists. Refer to Chapter 171 of the Texas Local Government Code and any applicable City ethics policies or regulations.

6.2.8 *Meeting Location and Open to Public*

(a) *Locations*

The Commission shall meet in the Municipal Building or in some other specified location as may be designated by the presiding Chairperson and at such intervals as may be necessary to orderly and properly transact the business of the Commission but not less than once each month.

(b) *Open Meetings Law*

Meetings shall be conducted in accordance with the Open Meetings Law (refer to Chapter 551 of the Texas Government Code)

6.2.9 *Procedure on Zoning Hearings*

The procedure and process for zoning changes or amendments shall be in accordance with Section 7.2 Zoning Amendments of this Zoning Ordinance.

6.2.10 *Joint Meetings with the City Council*

Whenever the Council and the Commission are required by the laws of the State of Texas to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the City to do so, the Council and the Commission are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings.

6.2.11 *Staff and Financing*

(a) *Recommendation of employees*

The Commission may recommend such employees as it deems necessary for its work. Their appointment, promotion, demotion, and removal shall be the responsibility of the City Administrator or designee.

(b) *Recommendation of support services*

The Commission may also recommend to the Council the employment of city planners, engineers, architects, and consultants for such other services as it may require.

(c) *Financing*

It is the prerogative of the Council to provide funds for the salaries of employees and the expenses of the Commission in the same manner as for other functions of the city government.

6.2.12 *General Advisory Duties of Commission*

(a) *Recommend Programs*

The commission shall, from time to time, recommend to the appropriate public officials, programs for public structures and improvements and for the financing thereof.

(b) *Consult with and advise public officials and agencies*

It shall be part of its duties to consult with and advise public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens with relation to protecting or carrying out of the plan. All public officials shall, upon request, furnish the commission within a reasonable time such available information as it may require for its work.

6.2.13 *Role of Review and Recommendation to the City Council*

The Commission shall be responsible for reviewing and making recommendations on the following applications to the Council:

Table 6.2.13 (a)
Zoning map amendment (rezoning)
Zoning regulation amendment
PDD application
Site Plan (rezoning and residential cluster development), with the exception of site plans submitted at the time of building permit application
Special Use Permit
Mixed Use Overlay District Concept Plan
Comprehensive Plan adoption or amendment

6.2.14 *Commission May Enter Land*

The Commission, its members, officers and employees, in the performance of their functions are encouraged to visit and examine properties either from the right-of-way or with the property owner's permission in advance of a required decision.

6.2.15 *Uniformity of Zoning Regulations*

The Commission may recommend the division of the city into districts of such number, size and area as may be deemed best suited to carry out the zoning plan. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulation in one district may differ from those in other districts.

6.2.16 *Relationship of Zoning to Comprehensive Plan*

(a) *Zoning regulations in accordance with comprehensive plan*

Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements.

(b) *Other considerations*

Zoning regulations shall be made with reasonable consideration, among other things, as to the character of the district and its suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

6.2.17 *Creation of a Comprehensive Plan*

The Commission shall have the power and the duty to make and recommend to the Council for adoption of a comprehensive plan for the physical development of the city, including any areas outside its boundaries that, in the judgment of the commission, bear relation to the planning of the city.

(a) *Purposes of Plan*

The plan shall be made with the general purpose of guiding and accomplishing coordinated, and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote the health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development: including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.

(b) *Studies in Preparing Plan*

In the preparation of such plan, the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city, with due regard to its relation to neighborhood territory.

(c) *Contents of Plan*

The comprehensive plan with the accompanying maps, plats, charts and descriptive matter shall show the recommendations of the commission for the development of the city.

(d) *Adoption of Plan*

(1) Council adoption. The Council may adopt the plan as a whole by a single resolution or may, by successive resolutions, adopt successive parts of the plan, such parts corresponding with major geographic sections or divisions of the city, or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto.

(2) Commission public hearing. Before the Commission recommends to the Council the adoption of the plan or any such part, amendment, extension or addition, the Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the city.

(3) Adoption by resolution. The adoption of the plan or of any part or amendment or extension or addition shall be by resolution of the Council carried by the affirmative votes of a majority of the Council. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan and the action taken shall be recorded on the map plan and descriptive matter by the identifying signature of the chairperson of the commission.

(4) Approval. An attested copy of the plan or part thereof shall be certified to the Council for the approval of the Council.

6.2.18 *Publishing and Amendments of Comprehensive Plan*

The Commission may recommend to the Council from time to time adopting and publishing a part or parts thereof, any such part to cover one or more major sections or divisions of the city or one or more of the aforesaid or other functional matters to be included in the plan. Amendments to any portion of the comprehensive plan may be reviewed by the Commission on a monthly basis.

(a) *Plan amendments with a zoning request*

Requests for amendments to the comprehensive plan that are submitted with a rezoning request shall follow the requirements as set forth in Section 7.2 Zoning Amendments, of these Regulations, except that no site plan is required unless required by Section 7.5 Site Plan Requirements of these Regulations.

(b) *Plan amendments without a zoning request*

Requests for amendments to the comprehensive plan that are not submitted with a rezoning request shall be made in writing by the property owner(s) or by the property owners designated representative, as evident by written authority, to the community development department. Also, such request shall follow the requirements as set forth in Section 7.1 Universal Procedures.

6.2.19 *Procedure for Approval of Public Projects*

Whenever the Council shall have adopted the comprehensive plan of the city or one or more major sections or districts thereof, no street, square, park or other public way, ground or open space, or public building or structure, or other governmental enterprise shall be constructed or authorized in the city, or in such planned section and district in contradiction to the adopted plans until the location, character, or extent thereof shall have been submitted to and a recommendation submitted by the Commission to the Council.

6.2.20 *Land Subdivision Regulations*

(a) *Preparation and recommendation of subdivision regulations*

The Commission may prepare and recommend to the Council for adoption rules and regulations governing the subdivision of land within the corporate limits of the city.

(b) *Planning and Zoning Commission recommendation required*

All plans, plats or replats of land laid out in two (2) or more lots, plats or parcels, or streets, alleys or other ways intended to be dedicated to public use within the corporate limits of the city shall first be submitted to the Commission for its recommendations.

(c) *Compliance*

The Commission shall, with the help of appropriate municipal officials, check the proposed dedication or subdivision of land to ensure compliance with the rules and regulations governing subdivision of land and with other elements of the comprehensive plan for the city.

6.3 Board of Adjustment

6.3.1 *Creation of Board of Adjustment*

There is hereby created a Board of Adjustment, herein referred to as the “Board,” in accordance with the provisions of Texas Local Government Code §211.008 for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, of making special exceptions and variances to the terms of these Regulations that are consistent with the general purpose and intent of these Regulations. The Board shall have the powers and duties as hereinafter set forth.

(a) *City Council as the Board of Adjustment*

The Council may act as the Board of Adjustment until such time as the Council appoints a Board pursuant to subsection (b) of this Section. The Council shall when serving as the Board, either meet in a separate meeting as the Board, or, if the meeting is scheduled at the same time as a council meeting, temporarily adjourn the Council Meeting, open and conduct the Board meeting in compliance with the requirements of this Section, adjourn the Board meeting upon completion of business and then reconvene the Council meeting, if necessary.

(b) *City Council Ceases to be the Board of Adjustment*

A Board may be appointed by the Council in accordance with this section. Upon appointing a separate Board, the members of the Board, and alternate members as needed, shall regularly attend meetings and public hearings of the Board, shall serve without compensation, and shall not hold any other office or position with the City while serving on the Board.

6.3.2 *Membership*

(a) *Number of Members and Residency*

The Board shall be composed of five (5) regular members, residents of the City of Shenandoah.

(b) *Appointment and Approval of Members*

The Board shall be appointed by a simple majority vote of the full Council, and shall operate in accordance with Sections 211.008 through 211.011 of the Texas Local Government Code, as amended.

(c) *Alternate Members*

The Council may provide for the appointment of up to five (5) alternate members to serve in the absence of one or more of the regular Board members on an alternating basis such that all alternate members have equal opportunities to serve on the Board. The Director of Community Development shall determine which alternate will serve if an alternate is needed.

(d) *Officers*

The Board shall elect a Chairperson and a Vice-Chairperson from among its membership, and each officer shall hold office for two (2) years or until replaced by a simple majority vote of the full Board.

(e) *Term*

(1) Regular Board members and alternate members shall serve for a term of two (2) years.

(2) Any vacancy(s) on the Board (both regular and alternate members) shall be filled for the unexpired term(s) via appointment by a simple majority vote of the full City Council for the remainder of the term(s).

(f) *Removal of members*

Members of the Board may be removed from office for cause, and after a public hearing, by a simple majority vote of the full Council. Cause shall include, but not be limited to, violation of the City Charter, **the Shenandoah Code**, maintaining permanent residence outside the corporate limits of Shenandoah, or using his/her position for personal gain. Failure to attend three (3) consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family. Absences may be excused by the Board or by the Council.

6.3.3 *Procedures*

(a) *Meetings*

Meetings of the Board shall be held at the call of the Chairperson or Director of Community Development and at such other times as the Board may determine. All meetings of the Board shall be open to the public, and minutes shall be kept of all proceedings at Board meetings. The Board may go into executive session for discussion as provided in Texas Government Code ch 551, subch. D but not for a vote on any case before it. Four (4) members of the Board shall constitute a quorum for the conduct of business.

(b) *Rules and Oaths*

The Board shall have the power to make the rules, regulations and bylaws for its own government, which shall conform as nearly as possible to those governing the Council and the provisions of these Regulations. The board shall adopt rules in accordance with the provisions of these Regulations. The chairperson, or in his/her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.

(c) *Meeting Open to the Public*

All meetings of the board shall be open to the public.

(d) *Records*

The City Administrator or designee shall serve as Secretary to the Board, and shall keep minutes of all meetings held by the Board. The Secretary shall also set up and maintain a separate file for each application for hearing by the Board, and shall record therein the names and addresses of all persons/entities to whom notices are mailed, including the date of mailing and the person by whom such notices were delivered to the Post Office. All records and files herein provided for shall be official records of the City of Shenandoah. The Secretary shall also immediately notify in writing the Council, Commission, and the City Building Official of each decision rendered by the Board in the conduct of its duties.

(e) *Concurring votes to for approval or to reverse action*

The concurring vote of at least four (4) members of the Board is necessary to:

(1) Reverse an order, requirement, decision or determination of an administrative official;

(2) Decide in favor of an applicant on a matter on which the Board is required to review under this Zoning Ordinance;

(3) Authorize a variance from a provision of this Zoning Ordinance (see Section 7.7 Variance); or

(4) Hear and decide special exceptions to a provision of this Zoning Ordinance (see Section 7.8 Special Exceptions).

(f) *Six (6) month waiting period for reconsideration*

Petitions, motions or other actions to reconsider prior motions, hear new applications for relief sought in prior actions, or any other similar request, petition, motion or other action seeking relief that has been earlier denied will not again be filed for hearing within six (6) months of the date of the decision by the board.

6.3.4 *Powers*

The Board shall have the following powers:

(a) *Variances*

Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category in accordance with Section 7.7 Variance.

(b) *Special exceptions*

Hear and decide special exceptions to in accordance with Section 7.8 Special Exceptions.

(c) *Appeal of an administrative or interpretation decision by a City official*

Hear and decide appeals by any person or by any officer, department, board, or bureau of the City of Shenandoah where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation or enforcement of any Zoning Ordinance in accordance with Section 7.1.5 Appeals. In exercising its authority, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the City Administrator or his/her designee

(d) *Interpret Boundaries*

Make interpretations on zoning district boundaries shown on the Zoning Map where uncertainty exists because physical features on the ground differ from those on the Zoning Map or where the rules in Section 4 of these Regulations (Zoning District Boundaries) do not apply or are ambiguous

(e) *Summary of the powers of the Board of Adjustment*

The following is a summary of the powers of the Board.

Table 6.3.4 (a)
Appeal of an administrative or interpretation decision by a City official.
Special Exception
Variance
Interpret Boundaries

(g) *Reverse, affirm, or modify*

When exercising the powers provided for in Section Powers related to appeals, special exceptions and variances of these Regulations, the Board, in conformity with the provisions of the ordinance, may reverse or affirm in whole or in part, or modify the order, requirement, decision, or determination from which appealed and may make such order, requirement, decision, or determination as ought to be made.

(h) *Written Decision for the Applicant*

Within three (3) business days from any Board decision, a written report of the decision of application should be available at City Hall for the applicant or other interested parties to have formal documentation of the decision.

(i) *Appeal to district court. Board of Adjustment appeal*

An appeal from any action, decision, ruling, judgment, or order of the Board may be taken by any person or persons, jointly or severally, or any taxpayer; or any officer, department, board, or bureau of the City of Shenandoah to the district court in accordance with Section 7.1.5 Appeals.

6.4 Community Development Director

6.4.1 *Responsibilities*

(a) *Review and coordinating authority*

The Community Development Director or their designee is responsible for reviewing and coordinating the following types of application:

Table 6.4.1 (a)
Zoning map amendment (rezoning)
Zoning regulation amendment
PDD application
Site Plan (rezoning, residential cluster development, detailed or building permit)
Special Use Permit
Variance
Exception
Mixed Use Overlay District Concept Plan
Comprehensive Plan adoption or amendment
Appeal of an administrative or interpretation decision
Appeal of a site plan decision made by the Community Development Director or their designee
Vested Rights Petition

(d) *Decision authority*

The Community Development Director or their designee has the authority to deciding the following applications and petitions:

Table 6.4.1 (b)
Minor Amendments and Adjustments to a PDD
Site Plan (building permit and detailed) with the exception of site plans submitted at the time of rezoning
Mixed Use Overlay District Concept Plan
Vested Rights Petition

6.5 Development Review Committee

6.5.1 *Creation*

There is hereby created within and for the City of Shenandoah Development Review Committee (DRC) with the responsibilities as hereinafter set forth.

6.5.2 *Purpose and Responsibilities*

The purpose of the DRC is to utilize the expertise of various city departments to review development proposals, concept plans, site plans, plats and other applications to assure that City regulations are met and to provide a recommendation for either approval or denial in a written report to the Community Development Director or their designee.

6.5.3 *Membership*

The DRC members shall consist of at least one representative from the following Shenandoah departments, as appointed by the City Administrator or designee.

(a) *Community Development Department*
(b) *Public Works Department*
(c) *Water/Wastewater Utilities Department*
(d) *Fire Department*
(e) *Building Department*
(f) *Any other department per the City Administrator's discretion.*

6.5.4 *Term*

Members shall serve at the discretion of the City Administrator or designee.

6.5.5 *Organization*

The members from the Community Development Department shall be the coordinating members for the entire DRC and shall be responsible for establishing meeting times, determining when the DRC has finished review of a site plan, and coordinating the written report to the Community Development Director or their designee.

6.6 Summary of Review Authority

6.6.1 *Summary of Review Authority*

The following table summarizes the procedures and review authorities listed within this Section 6.0 Development Review Bodies and Section 7.0 Administrative and Relief Procedures.

Table 6.6.1 a

Procedure	City Council	Planning and Zoning Commission	Board of Adjustment	Community Development Director	Development Review Committee
Zoning map amendment (rezoning)	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
Zoning regulation amendment	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
PDD application	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
Site Plan (rezoning)	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
Site Plan (residential cluster development)	Final Decision	Review / Recommend		Review / Recommend	Review / Recommend
Site Plan (building permit or detailed)				Final Decision	Review / Recommend
Special Use Permit	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
Mixed Use Overlay District Concept Plan	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
Variance			Final Decision*	Review / Recommend	Review / Recommend
Special Exception			Final Decision*	Review / Recommend	Review / Recommend
Comprehensive Plan adoption or amendment	Final Decision*	Review / Recommend*		Review / Recommend	Review / Recommend
Appeal of an administrative or interpretation decision			Final Decision*		
Appeal of a site plan decision made by the Community Development Director	Final Decision*				
Vested Rights Petition				Final Decision	
Appeal of a Vested Rights Petition decision made by the Community Development Director	Final Decision				
Minor Amendment or Adjustment to a PDD				Final Decision	

* Indicates public hearing required; boxes are also shaded blue for emphasis. Recommendations by the Commission shall be to the City Council, who shall have final authority to make a decision.

Section 7.0 Administrative and Relief Procedures

7.1 Universal Procedures

7.1.1 *Pre-Application Conference for Plans and Applications*

(a) *Request, Optional*

Prior to the official filing of an application, an applicant may and is encouraged to request a pre-application conference with the Responsible Official in order to become familiar with the City's regulations and the processes. Such request and pre-application conference shall be in accordance with Section 24.1.5 Pre-Application Conference and Vested Rights Waiver of the Shenandoah Subdivision Ordinance.

7.1.2 *Official Filing Date, Completeness of Application, Expiration of Application*

(a) *Applicability*

The following procedures shall apply to any plan or application that is required by the City and is submitted in accordance with these Regulations.

(b) *Official Filing Date*

The time period established by state law or this Zoning Ordinance for processing or deciding an application shall commence on the official filing date. The official filing date for a required plan application is the date a complete application is received by the City.

(c) *Determination of Completeness*

Every required plan or application shall be subject to a determination of completeness and be processed by the Community Development Director or their designee for processing the plan or application in accordance with Section 24.1.2 Application Completeness and Expiration of the Shenandoah Subdivision Ordinance, as amended.

(d) *Expiration of Application*

The required plan application shall expire on the forty-fifth calendar (45th) day after the date the application is filed if the applicant fails to provide documents or other information in accordance with Section 24.1.2(d) Expiration of Application of the Subdivision Ordinance as amended:

7.1.3 *Public Hearings*

(a) *Applications requiring public hearings*

(1) Zoning map amendment (rezoning).

(2) Zoning regulation amendment.

(3) PDD application.

(4) Site plan – amendment of site plan attached to a rezoning, PDD or SUP ordinance.

(5) Site plan (residential cluster development).

(6) Special Use Permit.

(7) Variance.

(8) Exception.

(9) Comprehensive plan adoption or amendment.

(b) *Review bodies and the associated public hearings per application type*

Public hearings shall be conducted for each review body per plan or application type according to the following table.

Table 7.1.3 (a)

Application Type	City Council	Planning and Zoning Commission	Board of Adjustment
Zoning map amendment (rezoning)	Hearing	Hearing	
Zoning regulation amendment	Hearing	Hearing	
PDD application	Hearing	Hearing	
Site Plan- –amendment of a site plan attached to a rezoning, PDD or SUP ordinance	Hearing	Hearing	
Site Plan (residential cluster development)	Hearing	Hearing	
Special Use Permit	Hearing	Hearing	
Variance			Hearing
Exception			Hearing
Comprehensive Plan adoption or amendment	Hearing	Hearing	
Appeal of an administrative or interpretation decision			Hearing
Appeal of a site plan decision made by the Comm. Dev. Director	Hearing		

(1) Zoning map amendments (rezoning) and Specific Use Permits For rezoning and Specific Use Permit requests for specific parcels, including PDD, SUP, variance and special exception requests, the Commission and Council shall hold public hearings with written notice to adjacent property owners on each application, as required by Texas Local Government Code Chapter 211, as amended and this section.

(2) Zoning regulation amendments. For requests involving proposed changes to the regulations of the Zoning Ordinance, the Commission and Council shall hold public hearings as required by Texas Local Government Code Chapter 211, as amended and this section. Changes in the regulations which do not change zoning district boundaries (i.e., which do not involve specific real property) do not require written notification to individual property owners in accordance with this Section.

(c) *Joint Public Hearings*

The Commission and Council may hold a joint public hearing on any proposed amendment to a regulation or boundary, but the Council shall not take action on the request until it has received a final recommendation from the Commission. Notification for a joint public hearing shall be accomplished by publishing the purpose, time and place of the joint public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing. Council, if they want to adopt other procedures, must do so by ordinance.

7.1.4 *Public Notice Requirements for Public Hearings*

(a) *Applications requiring public notice*

(1) Zoning map amendment (rezoning).

(2) Zoning regulation amendment.

(3) PDD application.

(4) Site plan –amendment of a site plan attached to a rezoning, PDD or SUP ordinance

(5) Special Use Permit.

(6) Variance.

(7) Special Exception.

(8) Comprehensive plan adoption or amendment.

(b) *Applications Not Requiring Public Notice*

(1) Appeal of an administrative decision or interpretation.

(2) Appeal of a site plan decision made by the Community Development Director or their designee.

(3) Appeal of a Vested Right Decision

(c) *Required public notice for plans and applications*

Public notices shall be required according to the following table.

Table 7.1.4.(a)

Application Type	Property Posted (Sign) Notice	Published Notice	Mailed Notice
Zoning map amendment (rezoning)	Discretionary[1]	Required	Required
Zoning regulation amendment		Required	
PDD application	Discretionary[1]	Required	Required
Site Plan – amendment of a site plan attached to a rezoning, PDD or SUP ordinance		Required	Required
Special Use Permit	Discretionary[1]	Required	Required
Variance		Required	Required
Special Exception		Required	Required
Comprehensive Plan adoption or amendment		Required	
Appeal of an administrative or interpretation decision			
Appeal of a Site Plan Decision made by the Community Development Director			
Appeal of a Vested Rights Decision			

[1] Property posted (sign) notice shall be required unless City Council determines otherwise in accordance with Section 7.4.2(d)(1)b below.

(d) *Types of notice*

(1) Postings of Signs on Property

a. Where a zoning change or map amendment is requested for a piece of property, the applicant for such request shall post signs, provided by the City, which provide notification and information concerning the proposed change or amendment on the subject property.

b. Council may waive or reduce the sign requirement on large-scale map amendments involving multiple properties and street frontages where such notification will be redundant or onerous.

c. City shall provide 24” x 36” signs

d. Signs shall be white with black lettering.

e. Signs shall have lettering at least four (4) inches in height.

f. Elements of a property posted notice.

1. The date, time, and place of the public hearings;
2. Who will conduct the public hearings;
3. The desired zoning classification;
4. The proposed use of the property;
5. The web site that contains the map and information regarding the rezoning;
6. The phone number where questions may be answered; and
7. Other information as may be necessary to provide adequate and timely public notice.

g. Signs must be posted along the property's entire street frontage so as to be clearly visible from the street.

1. A minimum of two (2) signs shall be located at approximately equal intervals along each street frontage if the frontage is less than 400 feet.
2. A minimum of three (3) signs shall be placed at approximately equal intervals along each street frontage if the frontage is four hundred (400) feet or more.
3. Additional signs shall be placed at the direction of the Community Development or designee.

h. It shall be the responsibility of the applicant to post the signs on the property not less than ten (10) calendar days prior to the date set for the public hearings before the Commission. The applicant shall provide pictures of the signs and submit an affidavit certifying compliance with this requirement to the Director of Community Development prior to the Public Hearings.

i. The signs must be maintained and shall remain erected on the property until final action is taken on the request by either the Commission or the Council.

j. Within ten (10) calendar days after the final action on the request by either the Commission or the Council, the signs shall be removed by the applicant.

k. Failure to post and maintain the signs on the property by the applicant as prescribed in Subsections (F) and (G) in this Section shall result in tabling the application to a future specified date.

(2) Notice of Public Hearings for Zoning District Map Changes Involving Real Property, Special Use Pemits, Planned Development Districts, Variances or Special Exceptions

a. Notice of the public hearings shall be accomplished by publishing the purpose, time and place of the public hearings in the official newspaper of the City before the fifteenth (15) calendar day prior to the date of the public hearings.

b. Written notice of the public hearings shall be sent to all owners of property that is located within the area of application and within two hundred feet (200) from the property lines of the property for which the zoning district change variance or special exception is sought. The written notice shall be mailed by depositing the notice, postage paid, in the regular United States mail before the tenth (10th) calendar day prior to the date such hearings are held to the last known addressees as listed on the most recently City approved tax roll. Such notice shall include:

1. A location map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in said area.
2. Legal description of the property and the street address or approximate location within the City of Shenandoah.
3. Present zoning classification of the property and the zoning sought by the applicant. If not a rezoning, then the nature or intent of the application shall be described.
4. The date, time, and place of hearings.
5. The web site that contains the zoning map and information regarding the rezoning, variance or special use permit.
6. The phone number where questions may be answered; and
7. Other information as may be necessary to provide adequate and timely public notice.

(3) Notice of Public Hearings for Zoning Regulation Amendment: When an amendment is proposed to the text of the Zoning Ordinance, notice of all public hearings shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing. Changes in the Ordinance text that do not change zoning district boundaries or classification of a specific piece of property do not require written notification to individual property owners, in accordance with State Law.

(4) Dual Notification of Commission Public Hearing(s) and Council Public Hearing(s): The City may, at its option, publish the required notices for all required public hearings for the Commission and the Council at the same time, in one notice.

(5) Additional Rules and Procedures Established: The Council may, by ordinance, establish additional rules and procedures for public notification of proposed zoning changes and development proposals. Knowledge of and adherence to such rules and procedures, shall be the responsibility of the applicant and shall be required as part of a zoning change or development application.

7.1.5 *Appeals*

(a) *Types of Appeals*

The following are the four (4) types of appeals contained within this Zoning Ordinance.

(1) Appeal of an administrative decision. Any person, department, board, or bureau of the City of Shenandoah affected by a decision of any administrative officer acting pursuant to the Shenandoah Zoning Ordinance may appeal such decision to the Board in accordance with Section 6.3.4 Powers of the Board.

(2) Appeal of a site plan decision. Any person, department, board, or bureau of the City of Shenandoah affected by a decision regarding a site plan made by the Community Development Director or their designee may appeal to the Council in accordance with Section 7.5.5 Appeals of a Site Plan.

(3) Any Rough Proportionality Appeal. Appeals of a claim that a public dedication or public improvement construction requirement is excessive and creates a burden that is not roughly proportional to the demand created by a new development should be processed in accordance with Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement the Subdivision Regulations of the Shenandoah Code of Ordinances.

(b) *Appeals Procedure to the City Council or Board of Adjustment*

(1) Timing and fee. Appeal to the Council or Board must be taken within thirty (30) business days from the date of the decision being appealed. The aggrieved party shall file a written notice of appeal specifying the grounds, and by paying a filing fee at the office of the City Secretary at the time the notice is filed. This notice shall be filed with both Responsible Official from whom the appeal is taken and the City Secretary.

(2) Transmission of record. The Responsible Officer from whom the appeal is taken shall transmit within ten (10) business days, all papers constituting the record of the appealed action appealed to the secretary of the appropriate appeals body.

(3) Stays of proceedings.

a. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the appropriate

appeals body that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

b. If agreed to by the appropriate appeals body, further enforcement proceedings shall not be stayed.

7.1.6 *Fees*

Fees for all applications, forms, plans, notifications, appeals, and petitions required under these regulations Ordinance shall be establish by the Council within a Fee Schedule**.**

7.1.7 *Payment of all Indebtedness Attributable to the Subject Property*

No application shall be accepted or reviewed for completeness from a person who owes delinquent taxes, delinquent paving assessments, or any other fees, delinquent debts or obligations or is otherwise indebted to the City of Shenandoah, and which are directly attributable to a piece of property until the taxes, assessments, debts, or obligations shall have been first fully discharged by payment, or until an arrangement has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid, or that other arrangements have been made for payment of said taxes, fees, etc.

7.2 Zoning Amendments

7.2.1 *Amendments*

The Council may, on its own motion, on petition from the property owner, or on petition from a property owner's designated representative, or by order of a court, or on recommendation of the Community Development Director or the Commission, amend these regulations and districts accordance with the procedures set forth in this section.

A separate application as described in subsection (d) Applications of this Section is required for each lot or parcel which is non-contiguous to any other lot or parcel being considered or said lots or parcels are separated by a dedicated street or right-of-way as set in the legal description of the lot or parcel proposed to be rezoned. The Director of Community Development may authorize the use of a single application where it determines that the single application will benefit the property owners whose property is being considered, as well as the adjacent property owners.

(a) *Application form and fees*

(1) Each application for zoning, rezoning, Special Use Permit (SUP), Planned Development District (PDD), or for a text amendment to a provision(s) of this Zoning Ordinance, shall be made in writing on the application form available in the Community Development Director’s office.

(2) Each application shall be accompanied by payment of the appropriate fee as established by Council.

(3) The Community Development Director is hereby authorized to develop appropriate application forms and requiring pertinent information from the applicant.

(b) *Time of filing*

(1) All applications required by this section shall be filed with the Community Development department a minimum of fifteen (15) calendar days in advance of the notification dates required by Sections 7.2.2 Public Hearing Required for all Proposed Zoning Amendments and 7.2.4 Resubmission of Petitions of these Regulations.

Applicants will be notified if an application is incomplete. The applicant shall make the necessary corrections in accordance with Section 7.1.2 Official Filing Date,

Completeness of Application, Expiration of Application. Incomplete applications will not be placed on an agenda.

(2) Corrected applications received after this date will be placed on the next agenda meeting these requirements for the Commission or Council.

(c) *Submission Requirements*

The following is a list of necessary requirements to be complied with in order to submit an application to amend the regulations and districts. Additional submission requirements may be required by the Community Development Director as part of the application forms and required information.

(1) Completed application form.

(2) For zoning district changes, copies of all deeds or a title opinion from a licensed attorney establishing current ownership of the property for which the zoning change is sought.

(3) A site plan when required by Section 7.5 Site Plan Requirements of these Regulations.

a. Properties for which a site plan as defined in Section 7.5 Site Plan of these Regulations is required and was previously approved, shall not require a site plan for rezoning applications where existing structures and improvements are proposed to remain in their present location and no new structures or improvements are proposed.

1. A plan showing only the existing structures, parking, curb cuts and drainage will be submitted with the application.
2. This will be considered a final site plan as defined in Section 7.5 Site Plan of these Regulations.

(4) The application form must be signed by the owner/applicant. If the applicant is not the owner, written authorization from the owner authorizing the applicant to submit the rezoning request shall be submitted.

(5) Payment of all Indebtedness Attributable to the Subject Property: Refer to Section 7.1.7 Payment of all Indebtedness Attributable to the Subject Property of these Regulations.

(d) *Minimum area and frontage*

The area and frontage requirements for rezoning will be calculated by measuring the total land area and street frontage of the property being developed, and must be listed in the application. No land shall be rezoned to a zoning district if it does not meet the minimum area and frontage requirements of the requested classification.

7.2.2 *Public Hearing Required for all Proposed Zoning Amendments*

(a) *Public hearings*

Parties in interest and citizens shall have an opportunity to be heard at public hearings conducted by the Commission and Council before any amendment to a district regulation, restriction, or boundary shall become effective, as outlined in Section 7.1.3 Public Hearings.

7.2.3 *Protests of Amendments or Changes of Regulations, Restrictions, and Boundaries*

If a protest against a proposed zoning change including PDD and SUP requests has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the land included in such a proposed change or those owners of property immediately adjacent to the subject property and extending two hundred feet (200) there from, such zoning

change shall not become effective except by a three-fourths (3/4) vote of governing body in accordance with the provisions of Section 211.006 of the Texas Local Government Code.

7.2.4 *Resubmission of Rezoning Requests*

(a) *Six (6) month waiting period*

Rezoning requests which have been heard and decided by the Council of the City of Shenandoah may not be re-filed with the city for six (6) months after the date of such decision by the Council, absent a change in circumstances.

(b) *Zoning to a different classification*

Rezoning requests for the same property to a different classification than the denied request may be re-filed prior to the expiration of six (6) months.

7.3 PDD Application and Review

7.3.1 *Criteria for Planned Development District (PDD) Review and Approval*

Because the PDD provides the opportunity for higher densities, greater design flexibility, mixed land uses, and improved marketability, the applicant should be prepared to provide amenities and services that might not be required or possible in a conventional development.

The application and review process for PDD is provided here due to the unique nature of each PDD, in order to provide a clear outline of the development process, and so that applicants are aware of the minimum standards that will be considered in any rezoning request to a PDD. The following factors shall be considered as review criteria for a PDD application. Other factors not listed, but determined to be appropriate based on the proposed location of the PDD, may also be considered in the review process in order to respond to specific design and land use proposals.

(a) *Land Use, Site Layout and Design standards*

(1) The proposed PDD shall be designed to provide for the unified development of the area in accordance with the spirit and purpose of the comprehensive plan and zoning districts and the land uses adjacent to it.

(2) Design of the PDD may propose the modification of requirements for such elements as setback areas, densities, setbacks, and height on individual lots in accordance with the PDD master plan.

(3) Density, land use, and intensity of use requirements shall be described in the PDD master plan documents and shall be in conformance with the comprehensive plan**.**

a. The maximum number of dwelling units within a PDD shall be based on calculation of gross density.

b. Gross density shall be established in the PDD master plan and shall be calculated by dividing the total land area to be developed for residential uses (exclusive of arterial streets) by the number of dwelling units**.**

(4) Building code requirements shall not be reduced in the design of a PDD.

(5) Location and type of housing shall be established by designated area shown on the master development plan map or overall site plan.

(b) *Minimum design and construction standards for street and alleys*

Streets and alleys for PDDs shall be designed and constructed in accordance with city standards and specifications for right-of-way width and paving cross sections, provided that modifications may be requested and approved as part of the master plan if the following criteria are met:

(1) Public streets and alleys. Proposed public street and alley modifications shall satisfy the following criteria:

a. Street right-of-way and paving shall be adequate to provide a traffic carrying and utility installation capacity related to the design of the overall street system, the function of the individual street, and the land uses served.

b. Paving cross sections shall be designed to be adequate to provide acceptable drainage in conformity with the drainage plan for the PDD; to receive loading commensurate with anticipated traffic based on the design of the overall street system; and to have a maintenance level commensurate with that of facilities constructed to regular standards.

(2) Private streets and alleys. Proposed private street and alley modifications shall satisfy the criteria for public facility modifications listed above and the following:

a. Private streets shall not be connected to an adjacent parcel that is not a part of the PDD in a manner that will circulate traffic into and through the private street system.

b. The owner/applicant shall clearly demonstrate the existence and capabilities of a property owners association or other mechanism in accordance with of the Subdivision Ordinance to provide the ongoing and long-term maintenance of the private street and alley facilities that will not be provided by the city.

(c) *General design and development guidelines*

(1) Intensities. Proposed developments shall conform to the general level of intensity outlined within the comprehensive plan and should be developed in a manner and at a scale that will be compatible with adjacent developed neighborhoods.

(2) Amenities. Amenities are important justification for development and city approval of a PDD. Where gross or net densities are to be increased to promote economy of development, or where other methods of land use intensification are proposed, usable open space should be furnished along with provision for its permanent retention and continued maintenance. Sidewalks and pedestrian ways should be planned where it is necessary to provide for amenities and public safety.

(3) Minimum land area. The minimum land area for a PDD request involving office, commercial or industrial land uses should be at least ten (10) acres.

(4) Streets.

a. Street design should be innovative and should restrict through traffic on residential streets.

b. Short, local streets serving limited areas are encouraged in residential areas. Short residential cul-de-sacs may be used to discourage through traffic but short streets with additional connections are preferred.

c. Local street right-of-way widths may be reduced to thirty (30) feet. However, a ten (10) foot easement shall be provided where utilities or sidewalks are proposed. These easements may be omitted when a letter can be provided from each utility company stating that they have no present or future need for a utility easement in the area.

d. Development of a private street system may be considered appropriate under certain conditions where there is no through traffic. However, a private street system should not serve as a reason for reduction of minimum design and paving standards.

e. On-street parking bays or other similar areas where vehicles must be backed into the traffic flow should not be approved on arterial or collector streets or any local street; provided, however that certain cul-de-sac or small loop street designs may be considered as appropriate.

(5) Parking. If the front building line in residential areas is less than twenty (20) feet, the Commission and Council may require additional guest parking at the suggested rate of one additional space per 7.5 units.

(6) Relationship to abutting uses.

a. The master development plan map should show graphically the treatments that will be employed to separate the PDD from abutting properties, including commitments to landscaping, screening, earthen berms, or similar techniques including meeting the requirements of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

b. It is appropriate to specifically establish areas with height limitations where a transition to more intense uses is proposed or where a higher intensity development is proposed adjacent to a lower intensity area.

(7) Mixed land use developments. Where a PDD proposes a mix of uses which would generally be incompatible with a conventional development, the PDD master plan should specifically establish appropriate guidelines to assure a harmonious development.

(8) Common access. In commercial or industrial developments, the PDD master plan should establish specific standards and locations for common access driveways both within the development and abutting arterial streets. Approval of the bonus provisions in Section 5.3.2 Off-Street Parking Standards of these Regulations for shared parking facilities should only be authorized in PDD where this access commitment is provided in the PDD master plan.

7.3.2 *Planned Development District Submission Requirements*

(a) *Five-step application and review procedure*

The developer and/or builder of a PDD shall follow a five (5) step application and review procedure:

(1) Pre-application conference, as outlined in Section 7.1.1 Pre-Application Conference for Plans and Applications.

(2) Application for rezoning, submission of PDD master plan, including the design statement and master development plan map.

(3) Preliminary plat, where required by the subdivision regulations.

(4) Final plat, where required by the subdivision regulations.

(5) Application for building permit and site plan reviewed by the Development Review Committee.

(b) *Approvals needed before proceeding*

Each required step shall be completed and approved before the following step is reviewed. Where appropriate, other methods authorized in the subdivision regulations may be substituted in Step 3 and Step 4 above. The Commission and Council may, however, review more than one step at the same public hearing.

(c) *Public hearing*

(1) Public hearings shall be held on the application for rezoning and the PDD master plan in accordance with regular procedures for zoning applications.

(2) Public hearings, if required for plats, shall be held in accordance with regular procedures established in the subdivision regulations.

(d) *Step 1. Pre-application review*

At least ten (10) business days prior to submission of an application for rezoning to a planned development district, the applicant shall submit to the Community Development Director or their designee a sketch plan drawn to approximate scale showing streets, lots, public areas, and other significant features.

The applicant should discuss with the Community Development Director or their designee the procedure for adopting a Planned Development District and the requirements for the general layout of streets and utilities, access to arterials, or general design and narrative, the availability of existing services, and similar matters.

The Community Development Director or their designee shall also advise the applicant, where appropriate, to discuss the proposed Planned Development District with any non-city officials who must eventually review the various aspects of the proposal coming within their jurisdiction.

The intent of the pre-application review is to expedite and facilitate the approval of a PDD master plan.

(e) *Step 2. Application for rezoning and PDD master plan*

Procedures and requirements. The PDD application for rezoning shall be filed in accordance with regular change/amendment procedures and on application forms of the City of Shenandoah. The PDD master plan, which is submitted with the application for rezoning, shall consist of a design statement and a master development plan map. The applicant shall also provide other supporting maps as necessary to meet the submission requirements of these Regulations. The master development plan map shall be a graphic representation of the development plan for the area.

(1) The Community Development Director or their designee shall establish an application form outlining all requirements of the PDD master development plan map and shall be responsible for maintaining and revising the application form. It shall include the following:

a. Location of proposed land uses, and residential densities;

b. Location of collector and local streets within the PDD and adjacent arterial streets;

c. Sufficient surrounding area including existing and proposed lots and streets, to demonstrate the relationship of the PDD to adjoining uses, both existing and proposed;

d. Location and approximate size of proposed open space and recreation areas;

e. Areas where access to streets will be limited and location of driveways where appropriate;

f. The following physical characteristics: elevation, slope analysis, soil characteristics, tree cover, and drainage information;

g. A topographic map with minimum five (5) foot contour intervals;

h. Drainage information, including number of acres in the drainage area and delineation of applicable flood levels;

i. PDD design statement.

The PDD design statement shall be a written report submitted as a part of the PDD master plan containing a minimum of the following elements:

1. Title of PDD;
2. List of the owners and/or developers;
3. Statement of the general location and relationship to adjoining land uses, both existing and proposed;
4. Description of the PDD concept, including an acreage or square foot breakdown of land use areas and densities proposed, a general description proposed, a general description of building use types, proposed restrictions, and typical site layouts;
5. The existing PDD zoning districts in the development area and surrounding it;
6. Selection of a base zoning district to regulate all uses and development regulations not identified as being modified;
7. A list of all applicable special development regulations or modified regulations to the base zoning district; plus a list of requested variations to the subdivision regulations or other applicable development regulations;
8. A statement on the existing and proposed streets, including right-of-way standards and street design concepts;
9. A statement of utility lines and services to be installed, including which lines will be dedicated to the city and which will remain private;
10. The proposed densities, and the use types and sizes of structures; and
11. A description of the proposed sequence of development.

j. The general traffic circulation system including any arterials or collectors as required by the major thoroughfare plan and any street connecting to adjacent properties.

k. Any other pertinent information necessary for review, approval, and administration of the PDD.

(2) Approval of the PDD master plan. After review and recommendation by the Commission, and upon approval by the Council of the PDD master plan and the appropriate ordinance of rezoning, these elements shall become a part of the official Zoning District Map. The ordinance of rezoning shall adopt the PDD master plan by reference, and it shall be attached to said ordinance and become a part of the official records of the City of Shenandoah.

(3) Expiration of PDD master plan.

a. If, after three (3) years from the date of approval of a PDD master, no substantial development progress has been made within the PDD, then the PDD master plan shall expire. If a PDD master plan expires, a new PDD master

plan must be submitted and approved according to the procedures within this Section PDD Application and Review.

b. An extension to the three (3) year expiration shall be granted if a development application for the PDD has been submitted and is undergoing the development review process or if the Community Development Director or their designee determines reasonable development progress is occurring.

(4) The use and development of the property. The PDD master plan shall control the use and development of the property, and all building permits and development requests shall be in accord with said plan until it is otherwise amended by the Council.

(5) The developer shall furnish a reproducible copy of the approved master development plan map for signature by the chairperson of the Commission, the Mayor, and acknowledgement by the City Secretary. The PDD master plan, including the signed map and all supporting data, shall be made a part of the permanent file and maintained by the City Secretary.

(f) *Step 3. Preliminary plat*

Upon approval of the PDD master plan and the ordinance of rezoning, the developer shall prepare a preliminary plat for the entire development area. Where a recorded plat exists and where there will be no additional easements, no property owners' associations, no plat restrictions, and no sale of lots that do not conform to the existing information on the recorded plat, the Commission may waive the preliminary platting requirement.

(g) *Step 4. Final plat*

(1) Where a subdivision plat has been required, the developer shall prepare a final plat for review, approval, and filing of record according to procedures established by the Commission and Council. In addition to these procedures, the final plat shall include:

a. Provisions for the ownership and maintenance of common open space, as required by the ordinance approving the PDD. Said open space may be dedicated to a private association or to the public provided that a dedication to the public shall not be accepted without the approval of the Council.

b. A homeowners' or property owners' association shall be created if other satisfactory arrangements have not been made for improving, operating, and maintaining common facilities, including private street drives, service and parking areas, and recreation areas.

(2) If there is no plat required, then subparagraph a and subparagraph b above shall be submitted and approved as a part of the PDD master plan at the time of rezoning.

(h) *Step 5. Site plan*

A site plan shall be submitted upon the application for a building permit and reviewed in accordance with procedures established in Section 7.5 Site Plan.

7.3.3 *Modifications*

(a) *Minor Amendments and Adjustment*

The Community Development Director or their designee shall be permitted to approve minor amendments and adjustment to the PDD master plan provided the following conditions are satisfied:

(1) The project boundaries are not altered.

(2) Uses other than those specifically approved in the PDD master plan are not added. Uses may be deleted but not to the extent that the character of the project is substantially altered.

(3) The allocation of land to particular uses or the relationship of uses within the project is not substantially altered.

(4) The density of housing is not increased more than ten (10) percent or decreased by more than thirty (30) percent.

(5) The land area allocated to non-residential uses is not increased or decreased by more than ten (10) percent.

(6) Floor area, if prescribed, is not increased or decreased by more than twenty (20) percent.

(7) Floor area ratios, if prescribed, are not increased.

(8) Open space ratios, if prescribed, are not decreased.

(9) Height restrictions, setback requirements, coverage restrictions and other areas, height, and bulk requirements prescribed in the PDD master plan are not substantially altered.

(10) The circulation system is not substantially altered in design, configuration, or location.

(11) The design and location of access points to the project are not substantially altered either in design or capacity.

(b) *Community Development Director Approval*

The Community Development Director or their designee shall determine if proposed amendments to an approved master development plan satisfy the above criteria. If the Community Development Director or their designee finds that these criteria are not satisfied, an amended PDD master plan shall be submitted for full review and approval according to the procedures set forth in these regulations. Reversion

(c) *Property Owner Request*

If a property owner decides to abandon the PDD concept and nullify the PDD master plan, the PDD shall remain in place unless the owner makes application for rezoning either to the original status or to a new classification. Said application shall be heard according to regular procedures by the Commission and Council.

(d) *Continuing Review by City*

If development of the PDD has not been started within three (3) years of the date of approval of the PDD master plan, the Community Development Director or their designee may request a report from the applicant/owner to determine the status of the project. Additional requests may be made as necessary. Nothing in the approval of a PDD shall be interpreted to limit the city's right to change the zoning from PDD to another district for any reason.

7.3.4 *Existing PDDs and Neighborhood Unit Developments*

PDDs and neighborhood unit developments that were adopted prior to these Regulations shall remain in effect under the regulations they were adopted.

7.4 Mixed Use Overlay District Approval and Specific Regulations

7.4.1 *MIX Mixed Use Site Design Principles*

The design of a MIX Mixed Use site shall include the consideration of pedestrian scales, building uses, circulation and visual quality. The arrangement of building masses, parking, open space, landscaping, walks and site furnishing shall encourage pedestrian activity, create unique views and create a usable site. Land uses can be mixed both vertically in the same building and horizontally on the same site. All planning and design of MIX Mixed Use sites shall begin with analysis of the site. This analysis shall consider the site's constraints, nature influences, historical qualities and surrounding land uses.

(a) *Site Design*

(1) Building Orientation - Building orientation shall consider uses both within structures and outside.

(2) Block Lengths - Block lengths in MIX areas shall generally be characterized by smaller, walkable blocks that are connected to each other. Cul-de-sacs or other single entrance streets are not allowed unless, due to topography or existing development patterns, there is no other way to serve the MIX development and a waiver is granted as part of a Planned Development for MIX approval in accordance with Section 7.4.4 Mixed Use Development Requirement Waivers. These small block lengths and connected street patterns will provide traffic efficiency and opportunities for pedestrian connectivity.

a. The minimum length of a public street block shall be 200 feet.

b. The maximum length of a public street block shall be 500 feet.

(3) View Corridors - The arrangement of streets, open space and buildings can create view corridors that create a more diverse and interesting urban environment, which increases long term viability and property values. View corridors should be provided for in the Concept Plan prior to its approval unless a waiver is granted by the Commission and/or Council due to unique physical constraints of the site in accordance with Section 7.4.4 Mixed Use Development Requirement Waivers.

(4) Scale - The massing of all new buildings shall be articulated in a variety of ways, including the use of projecting and recessed elements such as porches, cantilevers, balconies, bay windows and roof dormers, to reduce their apparent overall bulk and volume, to enhance visual quality and to contribute to human-scale development. Larger scale buildings with a box like style shall be avoided unless a waiver is granted in accordance with Section 7.7.4 Criteria for Variance Approval and the buildings meet the intent of the MIX Overlay Mixed Use District. In particular, large, single use buildings (Big Box Building) in excess of 35,000 square feet shall either not be allowed or shall demonstrate one of the following:

a. The Concept Plan shall demonstrate that the site can be re-configured into a pedestrian oriented development, without removing more than 50% of the proposed big box building; or

b. The primary building's street facing façade shall be built no greater than 100 feet from the back of curb of all streets the building fronts on, in a manner that would facilitate its use by smaller tenants, with one full bay of parking in front and a continuous browsing lane. This does not apply to internal buildings that are part of a larger development that meets these setback standards.

(b) *Height and Area Requirements*

The following are the height and area requirements as required for all MIX Mixed Use Developments unless otherwise modified in this Section. All lots and structures shall meet these requirements.

(1) Minimum Size of a MIX Overlay rezoning request shall be 3 acres unless it is immediately adjacent to an existing MIX Overlay district.

(2) Minimum Lot Area shall be 9,000 square feet.

(3) Minimum Lot Width shall be 60 feet.

(4) Minimum Lot Depth shall be 150 feet.

(5) Maximum Lot Coverage is the lot area covered by all buildings located thereon, including the area covered by all overhanging roofs. In the MIX Overlay district there are no coverage limitations provided that setback, yard, landscaping and open space requirements are met.

(6) Minimum Building Height shall be 15 feet.

(7) Maximum Building Height shall be 75 feet.

(8) At least 30% of the ground floor must be used for non-residential uses for buildings when adjacent to arterial, major collector, and collector street. For larger developments, internal buildings (those that are located behind buildings that are adjacent to arterial, major collector, and collector street) are not required to have at least 30% of the ground floor be used for non-residential uses. A waiver may be granted to exceed that amount for those buildings with limited retail/office potential.

(9) Maximum Density of non-single-family residential is 36 dwelling units per acre. Density refers to the ratio of dwelling units per acre of site. It is calculated by dividing the total number of dwelling units per development, tract or parcel by the total acreage for that development, tract or parcel. A waiver may be granted to exceed that amount up to 50 dwelling units per acre.

(10) The minimum dwelling unit size in the MIX Overlay district shall be 700 square feet.

(c) *Yard and Build to Lines*

(1) Yards shall be free from any encroachments, unless provided for in the zoning ordinance, including primary buildings, accessory buildings, detached garages, and ground mounted equipment.

(2) Structures that may be permitted in the yards include but are not limited to landscaping, walks, drives, parking, walls, fences, movable furniture, umbrellas, benches, planters, tree grates, decorative waste receptacles, lighting, patios, overhangs, canopies, eaves, balconies, and signs.

(3) At least 75% of the front façade of any structure facing a street must be located between the Minimum and the Maximum Build to Line. Up to 25% of such façade may be located further from the back of curb than the Maximum Build-to-Line but may not be located greater than 50 feet beyond the Maximum Build-to-Line. No part of any front façade may be located between the back of curb and the Minimum Build-to-Line.

(4) The following requirements shall be met:

a. Front Maximum Build-to-Line without a Browser Lane shall be 25 feet and shall be measured from back of curb along road frontage or on street parking (See Illustration 7.4.1(a). The Maximum Build-to-Line is a line parallel, or approximately parallel, to any lot line at a specific distance there from, marking

the maximum distance from the road or Browser Lane parking that a building may be erected.

b. Front Maximum Build-to-Line with a Browser Lane shall be 25 feet and shall be measured from back of curb closest to building along Browser Lane parking (See Illustration 7.4.1(b).

c. Front Minimum Build-to-Line without a Browser Lane shall be 15 feet and shall be measured from back of curb along road frontage or on street parking (See Illustration 7.4.1(a). It is a line parallel, or approximately parallel, to any lot line at a specific distance there from, marking the minimum distance from the road or Browser Lane parking that a building may be erected.

d. Front Minimum Build-to-Line with a Browser Lane shall be 15 feet and shall be measured from back of curb closest to building along Browser Lane parking (See Illustration 7.4.1(b).

e. Rear Yard abutting another MIX zoned parcel shall be a minimum of 0 feet.

f. All other rear yards shall be a minimum of 10 feet.

g. Side yards shall be a minimum of 10 feet unless adjacent to a MIX zoned lot in which case it shall be 0 feet.

h. Side Yard abutting a MIX building with windows or non-fire rated wall shall be a minimum of 10 feet.

i. All side and rear Yard dimensions shall be measured from the property line to the closest building.

Illustration 7.4.1(a)
Example of Build-to-Line without Browser Lane

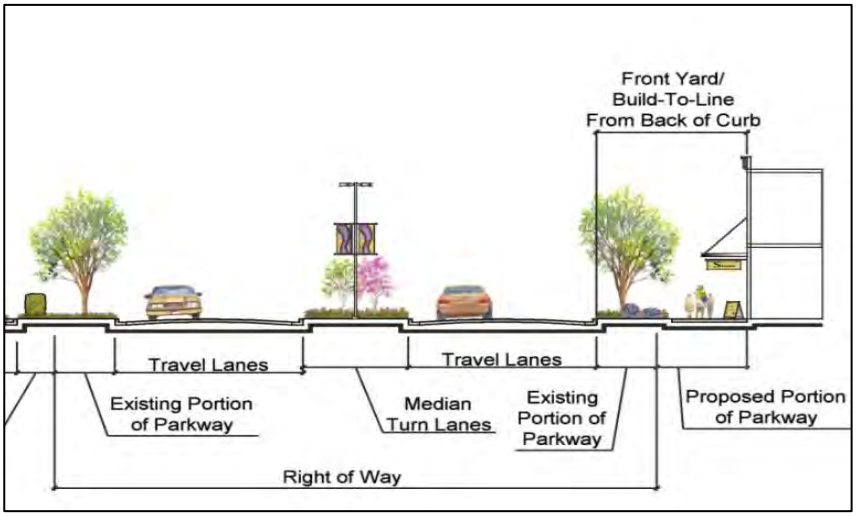
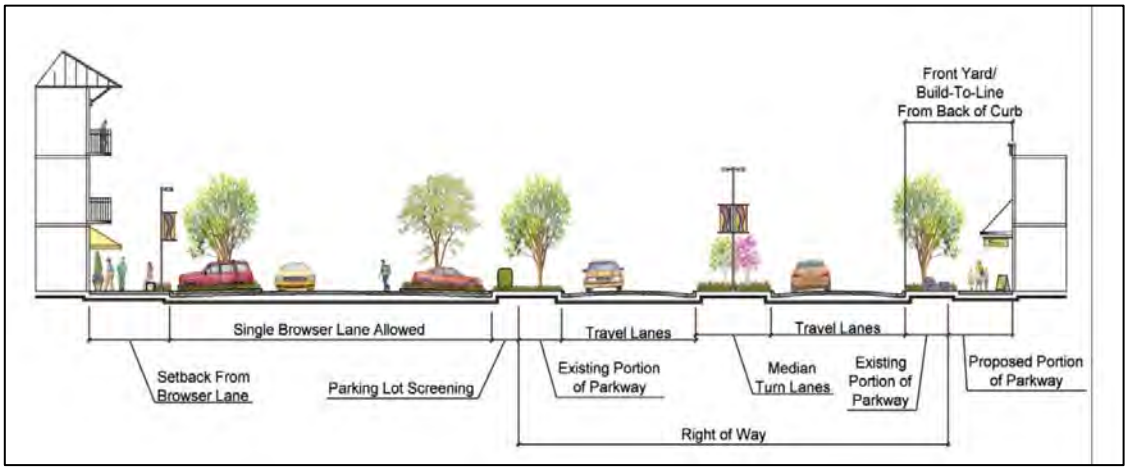


Illustration 7.4.1(b)
Example of Build-to-Line with Browser Lane



(5) All areas adjacent to a street shall be deemed front yards.

(6) Buildings shall be a minimum of 10 feet and a maximum of 20 feet from all other parking lots to allow for site furnishings, landscape and pedestrian corridors.

(7) Side and Rear Yard Setback adjacent to Single-family Residential Zoned Land.

a. MIX Mixed Use tracts adjacent to single-family residential zoned lands, must provide a solid masonry screening fence and a landscape buffer in accordance with Section 5.4.2 Side and Rear Yard Setback Adjacent to Single-family Residential Land

b. MIX Mixed Use tracts that are 200 feet or less in depth and/or where existing structures will not allow structures to meet the setback in paragraph a. above, must provide a solid masonry screening fence and a landscape buffer in accordance with Section 5.4.2 Side and Rear Yard Setback Adjacent to Single-family Residential Land.

(d) *Landscape Buffer Requirements*

See Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

(e) *Fencing, Walls and Screening*

See Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

7.4.2 *Architectural Design*

MIX Architectural Intent: The intent of the architectural design for MIX is to promote a pedestrian scale, high quality architectural design. The standard and requirements set forth in this section are intended to provide continuity in both redevelopment projects and new structures. Generally, architecture design in MIX districts shall have a form and look consistent with the approved concept plan and any related documents. Any design differences between the existing codes and what is proposed in a Mixed Use Overlay District shall be equal to or better than the existing code.

(a) *General Standards*

(1) All building facade appearances, materials and colors are subject to approval during the Concept Plan submittal.

(2) Horizontal Building Articulation - Building facades greater than 40 feet in length shall require at least one horizontal articulation break and be at least 2 feet in horizontal depth, at a minimum length of 20% of the building's total street facing width.

(3) Building facades greater than 100 feet in length shall require at least three horizontal articulation breaks and each articulation shall be at least 2 feet in horizontal depth each, with no less than 2 feet and no greater than 40 feet between articulations; cumulative articulations shall be a minimum length of 20% of the building's total street facing length.

(4) Vertical Building Articulation - Building facades greater than 40 feet in length shall require at least one vertical building articulation; at a minimum width of 20% of the street facing facade's width and a minimum height of 15 percent of the facade's total non-articulated height.

(5) Building facades greater than 100 feet in length shall require at least three vertical building articulations, with no less than 2 feet and no greater than 40 feet between articulations; cumulative articulations shall be a minimum width of 20% of the facade's street facing width and a minimum height of 15 percent of the façade's total non-articulated height each.

(6) Each sequential block of new development shall contain a unique building facade so as to encourage architectural variety within larger projects by using a combination of architectural elements.

(7) The use of highly reflective materials and surfaces are prohibited.

(8) The use of metal siding is prohibited.

(9) The use of mirrored glass glazing is prohibited.

(10) Concrete Masonry Unit (CMU) block exterior treatments are prohibited unless the CMU is colored, split face or oversized. They types of CMU's may be required to be included in a related "Illustrative Guide" or "Pattern Book" and approved as part of the Concept Plan Approval.

(b) *Facades and Building Forms*

Intent: Street facing building facades shall be designed with identifiable first floor, upper façade and rooflines. First floor facades shall be designed at human scale with elements such as window bays, recessed entries, awnings, canopies or other human scale architectural features.

(1) First floor facades may not exceed 20 feet in height but may be taller than upper level building floor to ceiling heights.

(2) The first floor facade heights shall be consistent for individual buildings and not varied in first floor heights, as to form a single horizontal element.

(3) First floor non-residential uses shall have 80% storefronts in order to provide for pedestrian street scenes, indoor and outdoor views and retail display spaces. Storefronts are defined as the part of the building that fills the structural bay on the front façade at ground level. Storefronts shall include a maximum three (3) feet high base (the area under the window), transparent windows and storefront cornice.

(4) Buildings shall reflect a small-scale street frontage rhythm, with building bay widths approximately 25-50 feet.

(5) Upper facades shall be designed with a rhythm, a repeating pattern, in architectural elements such as window spacing, façade sections, projections, awnings, window covers, window hoods and balconies.

(6) Each upper façade floor shall be a consistent height and not varied floor heights per individual floors, as to form a single horizontal element per individual floor.

(7) Individual floors shall be identifiable with elements such as material changes, trim, color changes, molding, cornice, belt course, awnings, balconies or other similar architectural features.

(8) To emphasize the community character and pedestrian scales, building facades shall incorporate the following elements:

a. Architectural Elements: Cornice, piers, columns, frieze, quoin, mullion, fenestration, pilasters, rustication and/or belt course.

b. Variation in Wall Plane: Canopies, balconies and/or awnings.

c. Change in Materials and Color: Each façade shall incorporate a minimum of two separate materials or color changes excluding glazing. Each separate material or color change shall be at least twenty (20) percent of the façade's appearance excluding glazing.

(c) *Exterior Materials*

(1) Building materials shall use architecturally consistent forms and textures.

(2) For multi store buildings, windows and door glazing shall not exceed fifty (50) percent of exterior walls. First floor facades shall not exceed eighty (80) percent windows and door glazing exterior walls.

(3) Stucco may not exceed seventy-five (75) percent (excluding windows and doors) of the exterior walls.

(4) Permitted exterior wall materials are brick, limestone, sandstone, flagstone, travertine, granite, slate, cast stone, stucco, tile and concrete.

(d) *Exterior Colors*

(1) The color restrictions shall apply to building materials, painted surfaces, architecture features and site furnishings.

(2) The use of florescent paint, florescent colors and exterior neon tubular lights shall be prohibited.

(3) Color elevations shall be required at time of Concept Plan approval.

(4) Exterior colors shall be complementary to one another and promote the architectural style of the district.

(e) *Building Entries*

(1) Main Entrances from Public Sidewalks or Plazas:

a. In order to create a pedestrian oriented environment in which buildings are oriented toward publicly accessible streets and sidewalks, a building must have its main entrance from a public sidewalk or plaza or from a private sidewalk or plaza that is publicly accessible through a public easement.

b. The main entrance shall not be from a parking lot.

c. Secondary entrances from a parking lot are permitted.

d. Primary entrances should be identifiable and utilize pedestrian scale.

e. All entrances shall conform to American Disabilities Act (ADA) requirements and guidelines.

(2) Non-Residential Entries: Each non-residential use with exterior, street oriented exposure shall have an individual public entry from the street side.

(3) Entrances shall be accented by architectural elements such as recessed facades, columns, overhanging roofs, awnings and or balconies.

(4) Rear Entries: Spaces behind buildings that are along pedestrian walkways and parking lots where pedestrian may access the building shall have rear entrances. These rear entrances shall be identifiable with elements such as signage, plantings, awnings above rear window or other human scale elements.

(5) Residential Entries: Street level dwelling units within multi-unit structures shall have individual street oriented entries for each unit.

(f) *Roofs*

(1) Roofs shall be designed as individual design elements and be utilized to block equipment and satellite dishes.

(2) The use of wood shake is prohibited. Clay tile roofing materials are prohibited unless an exception is granted by the Commission or Council where the clay tile is an integral part

of the architectural design of a project.

(g) *Parking Garages*

(1) To emphasize the community character of the site and to break up its overall volume appearance, parking garage facades shall incorporate at least two of the following elements:

a. Architectural Elements, examples include cornices, piers, columns, frieze, quoin, mullion, fenestration, pilasters, rustication and/or belt course.

b. Variation in Wall Planes; examples include wall openings, canopies, articulations, wall breaks, balconies and/or awnings.

c. Change in Materials and Color; defined as a minimum of two (2) separate materials or color changes excluding glazing. Each separate material or color change shall be at least 20% of the façade's appearance excluding glazing.

(2) Steel parking garages and steel guard cables on garage facades are prohibited.

(3) Parking garage facades shall be designed with distinguishable first floor, upper facades and roofs. Parking garage first floors shall be designed at human scale with elements such as awnings, canopies, window breaks and door openings.

(4) Parking garage facades shall be designed to complement the surrounding building's architecture character.

(h) *Site Furnishings*

(1) Site furnishings, including benches, litter receptacles, planters, bollards, lighting, bicycle racks, public art and fountains shall emphasize the architectural character of each individual Mixed Use development.

(2) Individual Mixed Use developments shall maintain continuity in site furnishing's style, forms, materials and color. Site furnishings shall be of the same architectural character of the surrounding buildings.

(3) Site furnishings shall be low maintenance and resistant to vandalism.

(4) Site furnishings shall maintain an unencumbered walkway for pedestrians.

(5) Lighting for off street parking facilities and pedestrian corridors shall be of the same height, style and color per development. Lighting shall be of the same architecture style and character as the surrounding buildings. Modifications

7.4.3 *Mixed Use Overlay District Miscellaneous Requirements and Procedures*

(a) *Parking and Circulation Regulations*

(1) Parking for Mixed Use sites shall be located in rear or side yards of the primary building, except as specifically allowed below, to minimize parking lot exposure along roadways. In addition to these parking and circulation regulations, all requirements set forth in Section 5.3 Parking, Loading, and Driveway Access of the City's Zoning Ordinance shall apply. Where conflicts occur, the Section 7.4.3 Mixed Use Overlay District Miscellaneous Requirements and Procedure regulations shall apply.

(2) Required Parking

a. The minimum required number of parking spaces provided shall be equal to 90% of the required parking for non-residential uses per the minimum requirements listed in Zoning Ordinance, Section 5.3 Parking, Loading, and Driveway Access, unless otherwise provided for in this section.

b. The maximum number of parking spaces provided shall be limited to the minimum non-residential use requirements listed in Zoning Ordinance, Section 5.3 Parking, Loading, and Driveway Access.

c. Required non-residential parking, including offsite parking, shall be provided within 600 feet of the building.

d. Adjacent on street parking shall be credited towards minimum parking space requirements. Adjacent on street parking shall refer to the parking spaces located along the street between the properties' lot line.

e. On street parking located on internal drives or internal streets within a site or development shall be credited towards required parking.

f. Apartment uses including loft apartments, flats and condominiums shall provide a minimum one (1) parking space per one bedroom and one-half (0.5) parking spaces for each additional bedroom and a maximum of two (2) spaces per unit.

g. Townhouse and rowhouse uses shall provide a minimum of one (1) parking space per unit and a maximum of two (2) parking spaces per unit.

h. Shared parking is permitted for two or more MIX uses in accordance with Section 5.3 Parking, Loading, and Driveway Access, provided the required parking per use occurs at alternating time periods. Developers are required to provide a time of day and use study for parking spaces. Required parking shall be determined based on peak demand studies using approved standards and meet the approval of the Community Development Department.

i. Off-street parking areas with no more than twenty (20) parking spaces served by no more that one aisle shall be permitted in front of any structure that faces a major thoroughfare. When such parking is provided, it shall be screened by a perimeter landscaping strip, earthen berm, or other landscaped plant material, with a minimum width of five (5) feet and in accordance with Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. All other parking areas shall be located to the side or rear of the primary on-site buildings.

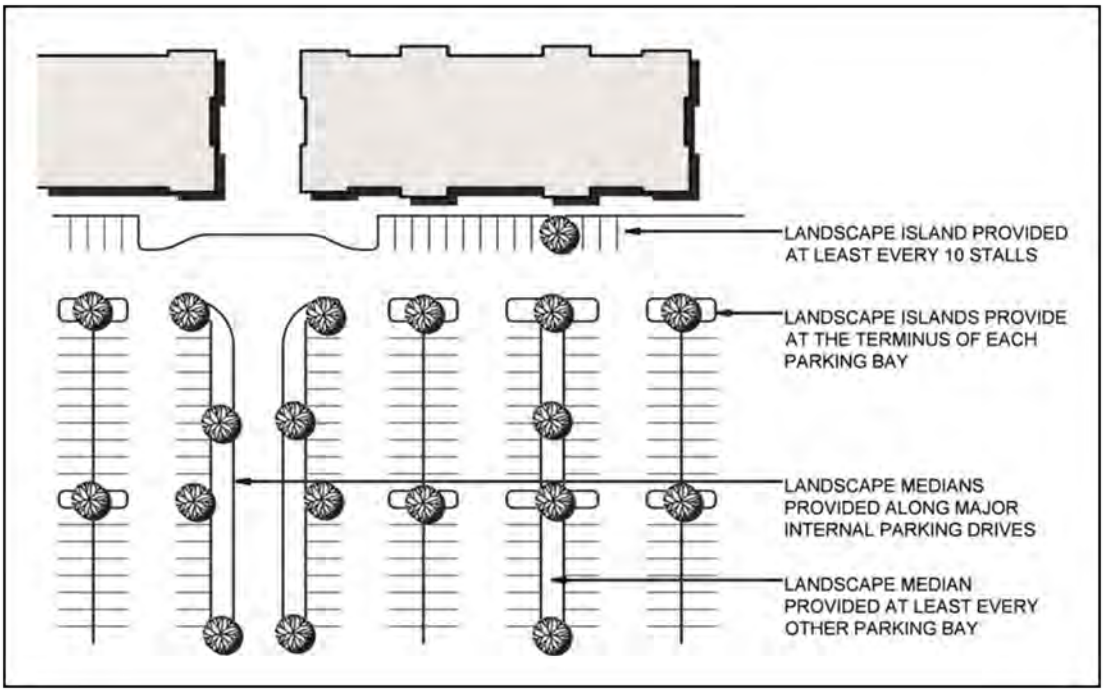
j. A special exception to reduce parking a maximum of fifty percent (50%) for each use may be by the Community Development Director or Designee provided that:

1. It can be established that two or more uses within the MIX District, applying jointly and concurrently for site plan approval, that will be sharing a parking area that may be on a property that is not under the same ownership as one or more of the uses to be served by the parking.
2. The shared parking area has a capacity of at least the minimum number of spaces for the use having the greatest minimum requirement.
3. All uses have their primary need for parking during offsetting periods so that the parking area will be utilized by only one (1) principal use at a time, and where the arrangement is documented through a long-term lease or other written agreement.
4. Proper pedestrian access is provided such that pedestrians can access both uses within an acceptable distance and that such access is provided safely and conveniently to both uses.

k. Access

1. Adequate access from different areas within a development shall be provided such that vehicles are not required to enter onto a perimeter street to move from one area to another with the same development.
2. Adequate access between non-residential uses shall be provided such that vehicles are not required to enter onto a perimeter street to move from one non-residential use to another; cross-access shall be required.

Illustration 7.4.3(a)
Example of Large Parking Lot Layout and Landscaping



(3) General Parking Lot Standards

a. Only a single Browser Lane (See Illustration 7.4.1(b) is permitted between roadways and buildings along the front of the property in MIX districts.

b. Also see Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

(4) Vehicular and Pedestrian Circulation

Intent: One of the key design elements and consideration for mixed use developments is the safe movement and opportunities for pedestrian circulation. While vehicles are a necessity, the mixed use development shall maintain a pedestrian oriented site plan. Site plans shall provide safe paths, minimize vehicular and pedestrian conflicts and establish logical circulation patterns. All development shall meet Americans with Disabilities Act (ADA), as revised.

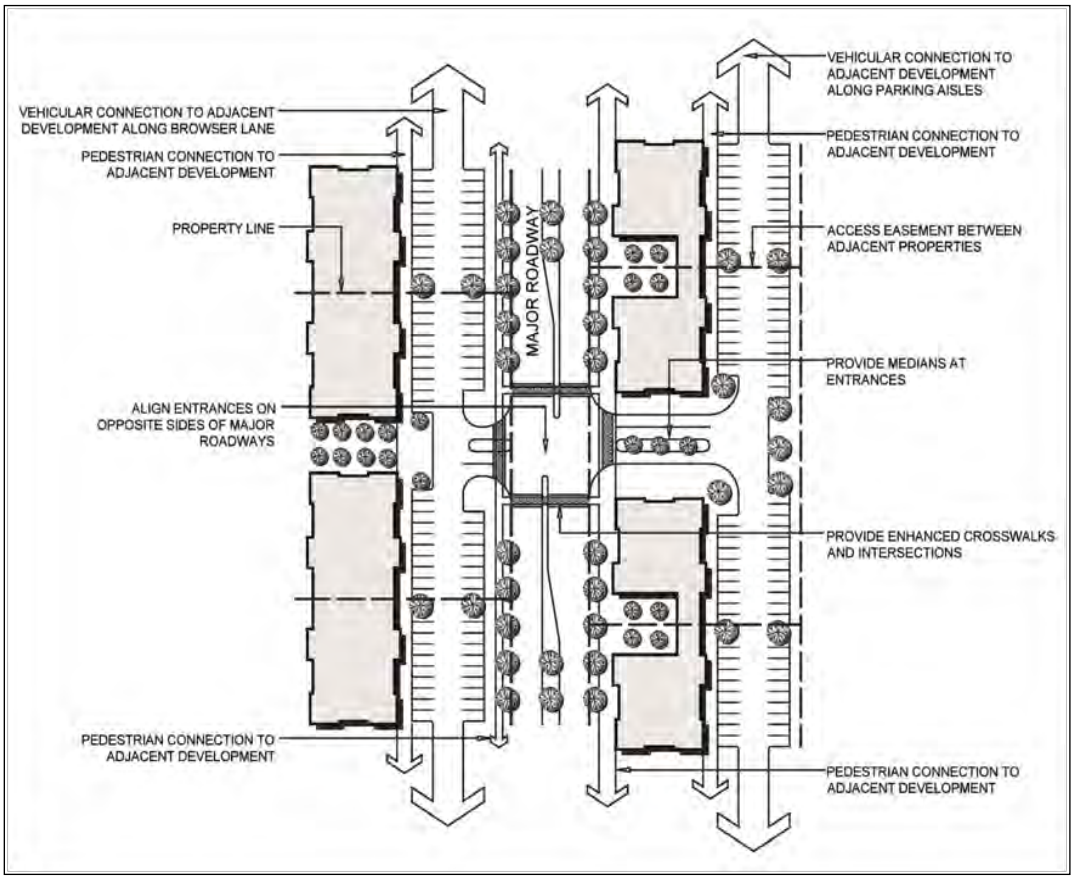
a. Entry

1. Primary site entrances for vehicles shall be part of an arrival sequence and shall provide a clear line of site and avoid conflicts with pedestrian and vehicular movements.
2. When possible, driveways shall be aligned with driveways on opposite sides of arterial, major collector and collector streets as defined in the City of Shenandoah paving Design Manual and Adopted Thoroughfare Plans, see Illustration 7.4.3(b).

b. Connectivity and Shared Access.

1. Site plans and developments shall provide, cross access easements to adjacent properties, in order to provide both sidewalks and drives. See Illustration 7.4.3(b).
2. New developments shall provide driveway stubs to adjacent undeveloped tracts.
3. If Mixed Use development exist on adjacent tracts, then development shall connect to existing drive stubs and sidewalks from adjacent properties.

Illustration 7.4.3.b
Sample of Connectivity and Shared Access



c. Sidewalks Clear Zone - Along all front yard setbacks or the areas between the buildings and the street or parking lot shall provide (an unencumbered walkway) for pedestrian use with a minimum of 8 feet shall be maintained.

d. Enhanced Intersections, Crosswalks, Drop Offs and Paving -

1. Mixed Use developments shall provide clearly marked crosswalks at street intersection and drop off areas.
2. Crosswalks are required at major pedestrian corridors.
3. In addition to any paint required by City or State ordinance, such crosswalks shall be delineated with variations in material, textures, paving patterns and color.

e. Medians.

1. Medians shall be used on all new arterial, major collector and collector streets in Mixed Use districts.
2. A minimum 6 feet driveway median is required for all driveways that connect to arterial and major collector streets.
3. Required driveway medians may contain approved signage.
4. The ground surface for all required driveway medians shall be covered with mulch, turf, small shrubs or groundcovers.

(b) *Mixed Use Sign Regulations*

Signs and markers are used to create an easily identifiable destination. They are also utilized to create a sense of community and define areas or districts. Signs should complement the buildings or developments architectural character in the MIX Overlay. All Mixed Use District Signs shall comply with Section 11.0 Existing Chapter 90, Sign Ordinance.

(c) *Open Space and Recreational Amenities*

(1) Open Space and Recreational Amenities in a MIX Overlay Development shall be designed and located in conformance with the following requirements and all other applicable Shenandoah ordinances. Where conflicts occur, the restrictions in this section shall apply. Open space is intended to provide passive and active recreational opportunities to the project's residents and visitors.

(2) Each multi-family complex may be required at the time of Concept Plan Approval to provide recreational facilities designed for use by the tenants of the complex, including community buildings and/or a swimming pool.

(3) All Mixed Use projects must provide 10 percent of net land area as open space, in addition to required landscaping.

(4) Open space credit will be applied to public spaces including but not limited to parks, playground, sports courts, sports fields, plazas, roof top terraces, courtyards and areas of tree preservation.

(5) Open space shall be accessible to the public.

(6) Open Space shall contain appropriate site furnishings and landscaping.

(7) Adjacent MIX developments shall design open space so that it is contiguous from the open space of the adjacent parcel if possible. It is the intent of the MIX open space areas to provide interconnected areas for recreation and pedestrian circulation.

(8) Required yards, medians and parking lot islands are not considered open space.

(9) All open space credit is subject to the Planning and Zoning Manager or their designee

determination that such open space meets these Regulations.

(d) *Landscaping*

See Also see Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

(e) *Special Requirements*

(1) Open storage is prohibited.

(2) Boats, campers, trailers and other recreational vehicles shall be prohibited.

(3) All buildings containing residential units shall provide a sign, visible from the entrances, identifying the unit numbers within the building.

(4) All mechanical, heating and air conditioning units shall be screened or hidden from view.

(f) *Refuse Facilities*

(1) Every multi-family dwelling unit shall be located within two hundred fifty feet (250') of a refuse facility; measured along the designated pedestrian and vehicular travel way. A refuse facility shall be a dumpster or other similar receptacle designed for receiving garbage in bulk for more than one dwelling. Refuse dumpsters shall be no closer than thirty feet (30') to any adjacent single-family property.

(2) Each refuse facility shall be screened from view on three (3) sides from persons standing at ground level on the site or immediately adjoining property, by solid screening wall of brick or stone masonry not less than six (6) feet, nor more than eight (8) feet in height or by an enclosure within a building. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall have a gate and be located so as to provide safe and convenient pickup by refuse collection agencies.

7.4.4 *Mixed Use Development Requirement Waivers*

(a) *Major Waiver*

A Major Waiver to Design Standards is a significant change to both the standards and intent of this Zoning District. A Major Waiver may only be granted through the reapproval of the Concept Plan by the Council in accordance with the procedural requirements of these Regulations. Major waivers of a requirement shall provide for a development that is equal to or better than the existing requirements.

(b) *Minor Waiver*

(1) A Minor Waiver to Design Standards is a minor change to the standards but not to the intent of this Zoning District. All Minor Waivers must meet the full intent of the Mixed Use Zoning District it is located in or the applicable standards in this document. A waiver to design standards may be granted by the Community Development Director, or designee, or at the Concept Plan approval or at the Detailed Site Plan approval. Any waivers not clearly considered minor, where there is disagreement as to whether the change is significant, or where the applicant desires to appeal the decision shall be treated and considered as a major waiver and require a decision by the Council. Minor waivers of a requirement shall provide for a development that is equal to or better than the existing requirements.

(2) Minor Waivers shall not be granted regarding: uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio and parking, but may be granted regarding access, screening, landscaping,

accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the Council and/or Commission may deem appropriate.

(c) *Waiver Approval Process*

The applicant shall specify the reasons for the minor waiver, how the waiver meets the intent of:

(1) The Mixed Use District and provides alternatives to meet the regulation(s) at the time of the waiver request.

(2) The approving authority may impose lawful conditions on granting any Waiver to mitigate negative impacts on neighboring properties, public streets or open space.

(3) The applications to the City shall list all requested deviations from the standard requirements set forth throughout this Section (applications without this list will be considered incomplete). The Mixed Use Development shall conform to all other regulations unless specifically excluded either in this section or by specific waiver.

(4) Council has final decision-making authority over any Waivers or Appeals that come before the Council.

7.4.5 *Concept Plan*

(a) *Review of Preliminary Draft*

The first step in the approval of a MIX Mixed Use Overlay District Development is the review of a preliminary draft of the concept plan with staff prior to formal submission to determine whether it complies with this code and the intent of the Overlay District and will be recommended for approval.

(b) *Submission and Approval*

The second step in the approval of a MIX Mixed Use Development is the submission and approval of a Concept Plan of the proposed project for recommendation by the Commission and approval of the Council. The Concept Plan shall be submitted prior to submission of any building plans or development approval requests.

(c) *Submission Requirements*

The Concept Plan be prepared in accordance with these regulations. The Plan shall show the applicant's proposed land uses within the Mixed Use District in a graphic manner and in supporting written documentation of proposals and standards for development. The Concept Plan shall be prepared in accordance with these Regulations. The City may prepare application form(s) that further describe and explain the Mixed Use District Concept Plan submission requirements. At a minimum, the mixed use Concept Plan shall illustrate the following: location of streets, sidewalks and walkways, building footprints and elevations, parking areas and requirements, landscaped areas and features, open space, screening and building elevations. A Mixed Use “Illustrative Guide” or “Pattern Book” may be required by the Commission or Council as part of the Concept Plan approval with examples of authorized materials and architectural features.

(1) Residential Concept Plan - A Concept Plan for residential land use shall show general use, thoroughfares and preliminary lot arrangements. For residential development (such as multi-family) which does not propose individual platted lots, the Concept Plan shall set forth the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, project scheduling, and other pertinent development data.

(2) Non-residential Concept Plan - A Concept Plan for uses other than residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. Additional conceptual data which may be required by the Director of Community Development or designee, may include but is not limited to the types of use(s), and boundary of the site, physical features of the site, existing streets, alleys and easements, location of future public facilities, building height and location, parking ratios, project scheduling and other information to adequately describe the proposed development concepts and to provide data for approval which is to be used in drafting the final Detailed Site Plan.

(3) These regulations and submittal requirements are the minimum standard for review of applications. Applicants are advised to thoroughly detail their proposals, as other information may be required at any point in the review process. The burden is on the applicant to establish the details and rationale for the MIX district.

(d) *Detailed Site Plan in Lieu of Concept Plan*

A Detailed Site Plan may be submitted in lieu of the Concept Plan, but must be reviewed and acted upon by the Commission and Council. If the applicant chooses to submit a Detailed Site Plan in lieu of the Concept Plan, then the applicant assumes all responsibility for any changes or time delays caused by the final submission.

(e) *Concept Plan Approval*

In considering a Mixed Use Development, the Council, upon recommendation of the Commission, may approve, approve with conditions or deny the appropriate plans and standards for each Mixed Use Development. Approval of the Concept Plan also requires notice to surrounding properties or a public hearing, as it is part of the Mixed Use zoning change. If Council approves with conditions, the Site Plan and other documentation must be revised as stipulated before a Detailed Site Plan is submitted.

(1) In recommending that a Concept Plan be granted, the Commission and the Council shall consider whether the arrangement and location of such uses are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and may add conditions for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, screening and open space, heights of structures, and compatibility of buildings. In approving a Mixed Use Development Concept Plan, the Commission and Council may consider and impose conditions to ensure the following:

a. Compliance with these Regulations and with any associated and approved Mixed Use District Illustrative Guide or Pattern Book.

b. The arrangement of uses is harmonious and compatible with surrounding existing uses or proposed uses.

c. The arrangement, location, and screening of structures and parking is adequate to protect surrounding residential neighborhoods.

d. Any negative impact on the surrounding area has been mitigated.

e. The intent of the district purposes are being upheld, impacts are minimized and the design has been improved to met the intent of these Regulations.

(2) A Concept Plan may be denied if it is of poor design, does not fit the area, or has an incompatible mix of uses.

(3) No Concept Plan shall be approved unless the applicant, owner and grantee of the

Concept Plan shall be willing to accept and agree to be bound by and comply with the Concept Plan as approved with any related conditions and any written requirements attached to the Concept Plan drawing (or drawings).

(4) Any approved plans will be placed on file with all related documents in the Planning Department. The Commission and the Council may approve the Concept Plan or Detailed Site Plan separately or jointly.

(5) Once the mixed use Concept Plan is approved, the development may proceed to Detailed Site Plan review.

(6) No permits, including those for preliminary grading and site preparation may be issued by the City without approval of a Concept Plan and subsequent Detailed Site Plan in accordance with these Regulations. All related site plans, landscape plans, elevations or other documents must also be revised to reflect any conditions of approval.

(f) *Board of Adjustment*

The Board shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the Concept Plan and related conditions.

7.4.6 *Detailed Site Plan*

A "Detailed Site Plan" is the third step in the approval process of a Mixed Use Development. This plan shall set forth the final plans for the proposed Mixed Use Development and may be approved administratively by the Community Development Director if it conforms to the data, and concepts presented and approved on the Concept Plan, in accordance with (b) below. Review of the Detailed Site Plan is not a zoning change, shall not require notice or a public hearing, and provides the basis for issuance of a building permit. It does not release the applicant of the responsibility to submit plans to the Building Official for a building permit.

(a) *Detailed Site Plan Submission Requirements*

A Detailed Site Plan shall include:

(1) A site inventory analysis including a scale drawing showing major existing vegetation, natural water courses, creeks or bodies of water and an analysis of planned changes in such natural features as a result of the development. This shall include a delineation of any flood prone areas.

(2) A scale drawing showing any proposed public or private streets and alleys; building sites or lots; and areas reserved as parks, parkways, playgrounds, utility easements, school sites, street widening and street changes; the points of ingress and egress from existing streets; general location and description of existing and proposed utility services, including size of water and sewer mains; the location and width for all curb cuts and the land area of all abutting sites and the zoning classification thereof on an accurate survey of the tract with a topographical contour interval of not more than two feet (2').

(3) A site plan for proposed building complexes showing the location of separate buildings and the minimum distance between buildings, and between building and property lines, street lines, and alley lines. Also, to be included on the site plan is a plan showing the arrangement and provision of off-street parking.

(4) A landscape plan showing turf areas, screening walls, ornamental planting, wooded areas and trees to be planted.

(5) An architectural plan (elevations, etc.) showing elevations and signage style to be used throughout the Mixed Use development. Proposed residential uses other than multi-family may use a typical elevation and a typical site/lot arrangement may be authorized

by the Planning and Zoning Manager or designee if deemed appropriate.

(6) All Detailed Site Plans may be required to have supplemental data describing standards, regulations or other data pertinent to the development of the Mixed Use Project as appropriate to adequately explain or understand the request and which is to be included in the text submitted and attached to the Detailed Site Plan.

(7) Locations and typical of proposed signs shall be shown on the Detailed Site Plan in accordance with Section 11.0 Existing Chapter 90, Sign Ordinance. Any required changes shall be authorized by Section 11.0 Existing Chapter 90, Sign Ordinance.

(8) The Detailed Site Plan shall be prepared in accordance with and comply with these Regulations and all other ordinances of the City.

(b) *Detailed Site Plan Approval*

The required Detailed Site Plan may be approved by the Community Development Director or Designee.

(1) The Director or Designee may approve or approve with conditions the proposed Detailed Site Plan if they determine that

a. It does not differ from the original Concept Plan and/or alter the basic relationship of the proposed development to adjacent property, the uses permitted, or

b. Increase the density, building height or coverage of the site, the off-street parking ratio or reduce the yards provided at the boundary of the site, or significantly alters the landscape plans as indicated on the approved Concept Plan.

c. The Detailed Site Plan may be approved in sections or phases by the Director or designee at their discretion and provided such approval does not contradict the Concept Plan approval and enough information is provided to assure compliance with these Regulations and the approved Concept Plan.

d. Waivers to the design requirements may be approved in accordance with Section 7.4.4 Mixed Use Development Requirement Waivers.

(2) The Director or designee may deny the proposed Detailed Site Plan if they determine that it does meet the provisions in paragraph (1) above or the requirements of this or any other City of Shenandoah ordinance. Appeal of such decision shall be to the Council upon recommendation of the Commission. If Council determines that the Detailed Site Plan varies from the Concept Plan, it shall require the Concept Plan to be amended prior to approval of the Detailed Site Plan.

(3) A Detailed Site Plan shall be submitted for approval within six (6) months from the approval of the Concept Plan for some portion of the Concept Plan. If a partial Detailed Site Plan is not submitted within six (6) months, the Concept Plan is subject to reconsideration by the Commission and Council. If some portion of the entire project is not started within two (2) years, the Commission and Council may review the original Concept Plan to ensure its continued validity. If the Council determines the concept is not valid, a new Concept Plan and Detailed Site Plan must be approved in accordance with these Regulations prior to issuing a building permit for any portion of the Mixed Use Development.

(4) Revisions to an approved Detailed Site Plan which do not alter the basic relationship of the proposed development to adjacent property, the uses permitted, or increase the density, building height or coverage of the site, the off-street parking ratio or reduce the

yards provided at the boundary of the site, or does not reduce the amount of landscaping as indicated on the approved Detailed Site Plan may be authorized by the Director or designee without having to obtain Commission or Council approval.

(5) No permits including those for preliminary grading and site preparation may be issued by the City without approval of a Detailed Site Plan in accordance with these Regulations.

(6) If the Council approves the Detailed Site Plan with conditions, the Detailed Site Plan or other documentation must be revised as stipulated and resubmitted for review and approval to the Community Development Department prior to the issuance of any permits.

7.4.7 *Revision*

(a) *Property Owner Request*

If the property owner decides to abandon the MIX, Mixed Use Overlay District and nullify the MIX Concept plan, she or he shall make application for rezoning either to the original status or to a new zoning district. The property shall remain subject to the MIX, Mixed Use Overlay District and Concept Plan until such designation is removed by Council. Said application shall be heard according to regular procedures by the Commission and Council.

7.5 Site Plan

7.5.1 *Site Plan Requirements*

(a) *Timing of the site plan requirement.*

(1) Rezoning. No site plan is required at the time of zoning or rezoning applications except for applications for:

a. Special use permits (SUPs).

b. Mixed Use Overlay (MIX) zoning district.

(2) Building Permit. Site plans are required in all zoning districts at the time of building permit application. Single family residential site plans may be so simplified to meet the Building Inspection Department submission requirements.

(3) Residential Cluster Development. Site plans are required for all residential cluster development.

(b) *Scale of the site plan requirement*

Where a site plan is required, it shall be drawn on a 24 by 36 inch sheet at a minimum scale of one hundred (100) feet to an inch.

(c) *Elements of the site plan requirement*

The site plan shall show the following:

(1) The exact size, shape, and dimensions of the property.

(2) The existing and proposed topographic characteristics of the site at a contour interval of not more than two (2) feet.

(3) The location of:

a. All existing and proposed buildings and structures.

b. All parking spaces and loading facilities.

c. All public and private easements within the property and all easements within one hundred (100) feet of the property lines.

d. All existing utilities.

e. All exterior lighting shown on a lighting plan, per Section 5.17 Outdoor Lighting and Glare Prevention.

f. All ingress and egress driveways.

g. All existing drainage facilities and proposed drainage improvements.

h. All landscaping as required by these Regulations and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

7.5.2 *Approval*

(a) *Review Process*

(1) Development Review Committee (DRC) evaluation of site plan conformance. The DRC shall review site plans submitted with rezoning applications and site plans required for all non-single family residential building permits.

(2) The Development Review Committee will evaluate such site plans and submit findings in a report or redlined site plan regarding the site plan's conformance to the standards of these regulations to the Community Development Director or their designee within twenty (20) business days of the determination of completeness of the application.

(b) *Approval Authorities*

(1) Council. Approval by the Council shall be required on all site plans submitted in accordance with these Regulations, except site plans submitted with a building permit application.

(2) Community Development Director. The Community Development Director or their designee shall have approval authority on all site plans submitted at the time of building permit application.

(c) *Standards for Development Review Committee & Evaluation*

The Council or Community Development Director or their designee shall review the Site Plan for compliance with all applicable City ordinances with respect to the following:

(1) The site plan's compliance with all provisions of this these regulations, and other applicable ordinances.

(2) The relationship of the development to adjacent uses in terms of harmonious design, façade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.

(3) The provision of a safe and efficient vehicular and pedestrian circulation system.

(4) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

(5) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and other emergency equipment to buildings.

(6) The coordination of streets so as to arrange a convenient system consistent with the City's adopted Thoroughfare Plan, as amended.

(7) The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary.

(8) Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties pursuant to Section 5.17 Outdoor Lighting and Glare Prevention.

(9) Protection and conservation of watercourses and areas that are subject to flooding. The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.

(10) Additional review criteria as listed in Section 5.14 Residential Cluster Development Option for site plans for residential cluster developments shall be considered.

(d) *Development not associated with a site plan requiring rezoning.*

Any individual lot or lots proposed for development not associated with a site plan that shall require rezoning shall follow the requirements set out in Section 7.2 Zoning Amendments of these Regulations.

(e) *Developments approved in conjunction with a site plan*

Any individual lot or lots proposed for development that were approved in conjunction with a site plan which shall require rezoning have not complied with the requirements of Sections 7.5.7 Applicant Initiated Elimination of Existing Site Plans and 7.5.8 Expiration of Site Plans of these Regulations or Special Use Permit shall follow the requirements set out in Section 7.5 Site Plan and Section 7.2 Zoning Amendments of these Regulations.

(f) *Conformity required for the granting of building or occupancy permits*

In order for a building permit or occupancy permit to be granted, all construction shall conform to the approved site plan, or if no site plan is required, then all other requirements of these Regulations shall be met.

7.5.3 *Failure to Comply*

Whenever the Community Development Director or their designee finds that any proposed construction varies substantially for properties approved in conjunction with a site plan approved by the Commission and Council, the procedure outlined in Section 7.5.4 Major Variation shall be followed.

(a) *Major Variation Definition*

A major variation is defined as an increase or decrease in the size of a building by twenty (20) percent, a change in configuration of the proposal, increase in the number of curb cuts or change in direction of curb cuts, and change in point of discharge of water.

A change in the use of a building or property with said change in use being a permitted use in the applicable zoning district does not require the site plan to be reviewed.

(b) *Minor Variation Definition*

A minor variation, which is defined as a variation that is not a major variation, may be approved by the Community Development Director or their designee or referred as outlined in Section 7.5.4 Major Variation of these Regulations at the discretion of the Community Development Director or their designee.

In regards to property being developed which does not require site plan approval by Commission or Council, no deviation from the site plan submitted at the time of building permit application

shall be allowed unless an application for amendment is made by the applicant and approved by the Community Development Director or their designee.

7.5.4 *Major Variation*

Major variation to the site plan shall occur in the same manner as the original application.

7.5.5 *Appeals*

Any person aggrieved by the decision of the Community Development Director or their designee may appeal to the Commission and Council. Notice of such appeal shall be given within thirty (30) business days after the decision of the community development department, and the department shall cause the appeal to be set for hearing before the Commission and Council.

7.5.6 *Fees*

Refer to the adopted **Zoning Ordinance Fee Schedule** for fees.

7.5.7 *Applicant Initiated Elimination of Existing Site Plans*

With the exception of Special Use Permits and planned development districts, applicants for site plans approved in conjunction with a rezoning request prior to the adoption of these Regulations may apply for a public hearing as prescribed in Section 7.2 Zoning Amendments before the Commission and Council to request elimination of said site plan.

7.5.8 *Expiration of Site Plans*

The approval of a site plan shall be effective for a period of three (3) years from the date of approval by the Council or City Staff, at the end of which time the applicant must have submitted and received approval of building permit or the Community Development Director or their designee determines that the applicant has demonstrated substantial progress toward the completion of the project for which the site plan was approved.

(a) *Null and Void*

If a building permit is not approved within the three-year approval period, or the Community Development Director or their designee determines no substantial progress has been made, the site plan approval is null and void, unless it is attached to an ordinance as part of a PDD, MIX or SUP approval.

(b) *Partial Expiration*

If permits have been approved only for a portion of the property and for improvements, approval for the site plan for the remaining property and/or improvements shall be subject to reconsideration and possible revocation.

(c) *Submission of New a Site Plan*

In case of expiration or voiding of a site plan, prior to application for any permits, the applicant shall be required to submit a new site plan for review and approval subject to the then existing regulations.

7.6 Special Use Permit

7.6.1 *General Description and Authorization*

The uses listed under the various districts as Special Use Permits are so classified because they may have adverse effects or more intensely dominate the area in which they are located than do other uses permitted in the district.

(a) *Consideration for compatibility*

With consideration given to setting, physical features, compatibility with surrounding land uses, traffic, and aesthetics, certain uses may locate in an area where they will be compatible with existing or planned land uses.

(b) *Review*

The Commission and Council shall review each case on its own merit, apply the criteria established in this Section, and, if determined to be appropriate, authorize said use by granting a Special Use Permit for it.

(c) *Use identified by individual zoning district*

If a Special Use Permit is granted it shall be for all the uses permitted by right in the specified district plus the Special Use Permit requested.

7.6.2 *Application*

Application and public hearing procedures for a Special Use Permit shall be completed in the same manner as an application for rezoning. A site plan shall be included with the application as outlined in Section 7.5 Site Plan.

7.6.3 *Criteria for Special Use Permit Approval*

(a) *Special Use Permit criteria.*

The Council shall use the following criteria to evaluate a Special Use Permit:

(1) Whether the proposed use shall be in harmony with the policies of the **Comprehensive Plan**.

(2) Whether the proposed use is in harmony with the general purpose and intent of the applicable zoning district regulations of the underlying district.

(3) Whether the proposed use adversely affects the use of neighboring properties.

(4) Whether the proposed use generates pedestrian and vehicular traffic that is hazardous or in conflict with the existing and anticipated traffic in the neighborhood.

(5) Whether utility, drainage, parking, loading, signs, lighting access and other necessary public facilities to serve the proposed use shall meet the adopted codes of the city.

(b) *Specific conditions*

The Council may impose specific conditions regarding location, design, operation, and screening to assure safety, to prevent a nuisance, and to control the noxious effects of excessive sound, light, odor, dust or similar conditions.

7.6.4 *Status of Special Use Permits*

Once a Special Use Permit has been granted for a lot, said Special Use Permit may not be expanded to another lot without application for a new Special Use Permit.

Provided, however, religious worship facilities as specified in Section 4.3.6 Low Impact Institutional: Neighborhood Related excluding accessory uses may expand to adjacent lots. Any accessory uses to the religious worship facility, if required to have an SUP may not expand or use adjacent property with application for a new Special Use Permit.

7.6.5 *Expiration of Special Use Permits*

All Special Use Permits ordinances shall contain language setting an expiration date under the following conditions:

(a) *Non-establishment.*

If the use is not established within twelve (12) months and no extension is approved. Evidence of non-establishment shall include:

(1) When a building permit has not been applied for within twelve (12) months of Council approval the applicant or owner may request a hearing for an extension of the initial Special Use Permit approval.

(2) Good cause for an extension shall mean that the owner shows evidence that he has contractors or applications pending with the city for development within the next year following the original approval.

(b) *Discontinuance*

If the use, after being established has been discontinued for a period of twelve (12) months or abandoned.

(c) *Lack of substantial compliance*

Whenever the Community Development Director or their designee or their designee finds that any proposed construction or occupancy will not substantially comply with the Special Use Permit, he shall refer the question to the Council for its review.

(d) *Amendment*

When the holder of a Special Use Permit determines that an extension of time or modification of the use is necessary, he may apply for amendment in the same manner as the original application. The amendment shall be processed in the same manner as an original application.

7.7 Variance

7.7.1 *Purpose*

The Board of Adjustment is authorized in specific cases to grant a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the Zoning Ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances except as provided in Section 7.7.5 Limitations on Authority of Board of Adjustment To Grant Variances.

7.7.2 *Variances Defined*

A variance is the authority to depart from the application of areas, side yard, setback, height, and similar regulations to prevent unnecessary hardships.

7.7.3 *Granting Authority*

The Board may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring compliance. Variances may be granted only when in harmony with the general purpose and intent of these Regulations so that the public health, safety and welfare may be secured and that substantial justice may be done.

(a) *Conditions of Approval*

In granting a variance, the Board may prescribe conditions that it deems necessary for, or desirable to, the public interest.

(b) *Findings*

In making the findings required in Section 7.7.3 Granting Authority the Board shall take into account:

(1) The nature of the proposed variance involved,

(2) Existing uses of land in the vicinity,

(3) The number of persons who will reside or work within the proposed use, and

(4) The probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare of the community.

Such findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such variance is granted.

7.7.4 *Criteria for Variance Approval*

No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with Section 7.1.3 Public Hearings of these Regulations and unless the Board finds:

(a) *Unique Circumstances*

That there are special circumstances or conditions affecting the land involved such that the application of the provisions of these Regulations would deprive the applicant of the reasonable use of his/her land; and

(b) *Minimum Necessary to Alleviate the Unnecessary Hardship*

The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

(c) *Preservation of Property Rights*

That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

(d) *No Substantial Detriment to the Public Good*

That the granting of the variance will not be detrimental to the public health, safety or welfare, impair the purposes and intent of these Regulations and the comprehensive plan or be injurious to other property within the area; and

(e) *Orderly Use of Land*

That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of these Regulations.

(f) *Precedent*

The granting of an individual variance will not set a precedent.

(g) *Finding of Undue Hardship*

In order to grant a variance, the Board must make the following findings to determine that an undue hardship exists:

(1) That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property; and

(2) That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and

(3) That the relief sought will not injure the permitted use of adjacent conforming property; and

(4) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

(5) Financial hardship alone is not an "undue hardship" if the property can be used, meeting the requirements of the zoning district it is located in.

(h) *Factors Not Considered*

A variance shall not

(1) Be granted to relieve a self-created or personal hardship,

(2) Be based solely upon economic gain or loss,

(3) Permit or allow any person a privilege or advantage in developing a parcel of land not permitted or allowed by these Regulations to other parcels of land in the same particular zoning district.

(4) Result in undue hardship upon another parcel of land.

7.7.5 *Limitations on Authority of Board of Adjustment To Grant Variances*

(a) *Use Variances*

The Board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

(b) *Special Use Provision*

The Board shall have no power to grant or modify Special Use Permit requirements under Section 7.6 Special Use Permit of these regulations.

(c) *Zoning Amendments*

The Board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Commission or the Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the Commission and the Council.

(d) *Pending Action*

The Board shall not grant a variance for any parcel of property or portion thereof upon which a required site plan (refer to Section 7.5 Site Plan), or any plat is pending on the agenda of the Commission and/or the Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Board.

(e) *Precedential Value*

A variance is applied for and considered on, the merits of the application as it applies to a specific parcel of property. If a variance is granted, such approval shall have no value as legal precedent and shall not be cited by a future applicant nor be binding upon City Staff or the Board.

7.8 Special Exceptions

7.8.1 *Purpose*

The Board is authorized to hear and decide special exceptions to the Zoning Ordinance that are not permitted by right in a particular district because of potential adverse effect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted where specifically authorized by the Zoning Ordinance in Section 7.8.2 Special Exceptions Defined, and in accordance with the substantive and procedural standards of the Zoning Ordinance.

7.8.2 *Special Exceptions Defined*

A special exception is differentiated from a variance as the term is used in these Regulations by the following:

(a) *No Hardship Required*

A special exception does not require a finding of a hardship.

(b) *Specifically Allowed*

Approval of a special exception by the Board is allowed only as specifically provided for and defined in these Regulations.

7.8.3 *Requests for a Special Exception*

The Board may consider a special exception to the provisions of Section 7.8.4 Special Exception Authorized upon written request of the property owner.

7.8.4 *Special Exception Authorized*

The Board may consider a special exception, after holding a public hearing as required in Section 7.1.3 Public Hearings in accordance with the following circumstances and/or standards

(a) *Nonconformities*

The Board may authorize a special exception to allow non-conformities to continue in the following circumstances:

(1) To allow a change from one non-conforming use to another non-conforming use that is the equivalent of or less non-conforming than the existing one, in a conforming building, or

(2) To allow re-construction of a non-conforming structure that has been partially or totally destroyed, or

(3) To alter or enlarge a non-conforming building or structure.

(4) To allow the resumption of a non-conforming use previously abandoned upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.

(b) *Residential Setbacks*

For single-family and duplex (Two Family) structures that were legally constructed prior to the effective date of these Regulations, the Board may authorize a special exception to replace, repair or expand any structure that was constructed over a setback line established by these Regulations

(c) *Permit the Extension of a District*

Where the boundary line of a zoning district divides a legally recorded lot and was established by the municipal governing body and not by the application of the property owner, the Board may authorize a special exception to extend a zoning district so that the entire lot has the same zoning classification. A district boundary line must divide a single lot that is under single ownership, as evidenced by a certified copy of a properly recorded deed.

(d) *Interpret the Boundaries of a Zoning District*

Where the official zoning map layout actually on the ground varies from the street or physical feature layout as shown on the map fixing the several districts, the Board may authorize a special exception to clarify where the district boundaries are.

(e) *Grant exceptions to the off-street parking requirements*

The Board may authorize a special exception to the off-street parking requirements set forth in Section 5.3 Parking, Loading when it is determined:

(1) That the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, and the proposed use will not create undue traffic congestion in the adjacent streets, or

(2) That the use can share parking with other adjacent uses in accordance with Section 5.3 Off street parking and upon provision of a shared parking study.

(f) *Modify Landscaping Requirements*

The Board may authorize an exception to the landscaping requirements in Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances when it is determined that the size and shape of the of the lot to be built on is such that landscaping provisions cannot reasonably be complied with and the reductions will not significantly impact adjacent properties or neighborhoods.

(g) *Provide for modification of screening requirements*

The Board my authorize a modification of screening requirements, as set forth in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances the Board may:

(1) Modify or remove the screening requirements where existing physical features provide visual separation of uses (i.e., fence).

(2) Grant an extension of time to erect a screen where properties that are to be benefitted by the screen are undeveloped.

(3) Remove the screening requirement where the purpose of the screening requirement cannot be achieved (i.e., creek bank, topography, negates the benefits of screening).

If there are objecting property owners to the screening modification, the Special Exception must be approved by three-fourths (3/4) vote of the total membership.

(h) *Provide for fencing forward of front and side setback building lines*

To provide for fencing forward of front and side setback building lines under the following conditions:

(1) Requests for front and side yard fences that do not meet the requirements of Section 5.2.3(a) Residential Fencing and Screening Fences and walls beyond or in front of the

front building line shall be considered Special Exceptions and shall be processed pursuant to Section 7.1.5 Appeals.

(2) If approved by the Board, any fencing must also meet the following conditions:

a. Regardless of the type or height of fence constructed pursuant to this subsection, access for public safety services shall be maintained. Owners assume all responsibility for any losses incurred when the responding public safety services remove any impediment (e.g., locks, chains, animals).

b. Fencing shall be structurally sound and kept in an attractive state and in good repair at all times.

c. Front yard fencing must not be sight-proof either by construction or ornamentation and at all times shall allow clear vision while backing onto a street.

d. Fencing shall contain at least one gate with an unobstructed clear width of three (3) feet at all times. If an archway is placed above the gate, then it shall retain a clearance of no less than seventy-eight (78) inches at all times.

e. If additional right-of-way or sight triangles are required by the Community Development Director, the property owner will be required to dedicate these prior to issuance of a fence permit.

f. Fence gates shall be constructed in such a manner so as to avoid vehicles having to remain in the paved right-of-way while the gate is being opened and closed.

g. Fencing shall not obscure or restrict the access to any fire hydrant or any fire connection.

h. Fencing shall not be located in the street right-of-way. It is the responsibility of the applicant to determine the property boundaries. In the event the fence is constructed in the right-of-way, it is the property owner's responsibility to move the fence.

i. In the event there is not at least twelve (12) feet between the right-of-way line and the edge of paving, the fencing shall be set back at least twelve (12) feet from the edge of paving.

(i) *Permit temporary location of a manufactured home*

The Board may authorize a special exception for the temporary location of one manufactured home in any zoning district for a period of time not to exceed twenty-four (24) months under the following conditions:

(1) The manufactured home shall be connected with a suitable water supply and sewer system and shall be in conformance with the health and sanitation laws of the City, County and State.

(2) The land on which the manufactured home is located shall be owned by the occupant thereof or the owner shall be related, in the first degree, to an occupant thereof.

(3) Only one (1) manufactured home unit shall be permitted to locate on a lot. The manufactured home unit shall be temporary only for a period of time that shall not exceed twenty-four (24) months from the date of issuance of the permit.

(4) It is intended that a single manufactured home unit is permitted to locate temporarily in an area that is relatively undeveloped. The location of manufactured homes, even on a

temporary basis, in established residential areas is not considered desirable. Therefore, no manufactured home shall be permitted within one hundred (100) feet, including streets and alleys, of an existing dwelling and shall not be located on a lot containing less than one (1) acre.

7.9 Non-conforming Buildings, Structures and Uses of Land

7.9.1 *General*

Within the districts established by these Regulations there may be uses, structures, and lots which were lawful before the effective date of these Regulations, but which become prohibited under the terms of these Regulations or future amendment to these Regulations. Non-conformities are regulated by this section.

7.9.2 *Non-conforming Use of Land Without a Building or Structure*

Any lawful use of property without a building or structure shall be deemed a legal non-conforming use and subject to the following provisions.

(a) *Timing for compliance*

The owner has five (5) years from the date of the city's service of notice of nonconformity to bring the land into compliance with the current ordinances. Service of notice of nonconformity shall be accomplished by personal service or certified mail, return receipt requested, to the landowner and the occupant, if other than the landowner. The lot, tract or property shall be cleaned and all trash, debris, stored items and vehicles, and other materials shall be removed from the premises such that the property is not a physical or visual nuisance to the public or to surrounding property owners. Appeals of a requirement to cease such a non-conforming use of land shall be to the Board.

(b) *Expansions prohibited*

During the five-year notice time period, the non-conforming use shall not be expanded or moved in whole or in part to any other portion of the lot or parcel on which it is located.

7.9.3 *Non-conforming Uses of Conforming Buildings*

If a lawful use operates in a conforming individual building or structure is made non-conforming under these Regulations, the use may continue, subject to the following provisions:

(a) *Continuance*

The right of a non-conforming use to continue shall be allowed to continue provided that the use is not increased. Non-conforming lease spaces may be reoccupied indefinitely so long as they do not increase the nonconformity.

(b) *Change of non-conforming uses*

A building use may be changed to another non-conforming use of an equal or a more restrictive classification or to a conforming use. However, the use shall not thereafter be changed to a less restricted use. A building permit shall be required for any structural alterations and a certificate of occupany for any change of occupancy.

(c) *Expansion of a non-conforming use*

If a non-conforming use is not operated in an entire structure, and no structural alterations except those required by law or ordinance are made, a non-conforming use may be extended throughout a building. A non-conforming use of a building may be changed to another non-

conforming use of the same or more restrictive zoning classification, provided no structural alterations are made. In the event that a non-conforming use of a building is changed to a non-conforming use of a higher or more restrictive zoning classification, it shall not later be reverted to a use in the former lower or less restrictive zoning classification.

7.9.4 Non-conforming Buildings and Structures that have Conforming Uses

Although a structure or building does not conform to the district requirements of these regulations for minimum lot size, lot width, required yards, setback requirements, height, lot coverage, parking, other characteristics of the structure, or its location on the lot, a lawfully existing structure or building may continue, subject to the following provisions:

(a) *Alteration or enlargement of buildings and structures*

A non-conforming building or structure shall not be enlarged in any manner unless said building or structure, including additions and enlargements, is made to conform to all of the requirements of the district in which it is located. The Board may approve a special exception to alter or enlarge a non-conforming building or structure. See Section 7.8.4 Special Exception Authorized.

(b) *Exceptions*

If a building or structure is conforming as to use, but non-conforming as to required yards, setbacks or height or off-street parking space, the building or structure may be enlarged or added to provided that the enlargement or addition complies with the required yards, setbacks or height requirements and the existing building and the addition complies with the off-street parking requirements of the district in which said building or structure is located.

7.9.5 Repairs, Maintenance, Moving and Damaged Structures

(a) *Repairs and Maintenance*

Nothing in these Regulations shall be construed to prohibit the upgrading, strengthening, repair or maintenance of any part of any structure, conforming or non-conforming, that is declared unsafe or uninhabitable by the proper authority, unless such repairs or maintenance exceeds fifty percent (50%) of the structure's appraised value, as determined by the Montgomery County Appraisal District. In cases where the Appraisal District has no value indicated, an independent appraiser may be utilized.

(b) *Moving of Non-conforming Structure*

No non-conforming structure or building shall be moved in whole or in part to any other location on the lot where it is located, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be relocated. Such building relocation shall require a structure relocation permit from the City, and may also require platting of the intended building site pursuant to the City's Subdivision approval processes required by these Regulations and all other City ordinances.

(c) *Damaged Structures*

(1) If the value of a building or structure is destroyed by fire, the elements, or other event by fifty percent (50%) or more of the appraised value, as determined by the Montgomery County Appraisal District, then the structure may be rebuilt only in conformity with the provisions of these Regulations. .

(2) If the value of a building or structure is destroyed by fire, the elements, or other event by less than fifty percent (50%) of the appraised value, as determined by the Montgomery County Appraisal District, then the structure may be reconstructed as it was before the partial destruction. Such reconstruction shall be permitted only to its

original dimensions and floor area, provided that such reconstruction is completed within one (1) year (i.e., 365 calendar days) following the event that caused the partial destruction. If reconstruction is delayed by contested insurance claims, litigation, or some other similar cause, then the one-year reconstruction period may be extended by the Board.

(3) If a non-conforming structure that is totally or partially destroyed was occupied by a non-conforming use at the time of such destruction, then the non-conforming use may not be re-established without specific authorization by the Board. (See Section 7.8.4 Special Exception Authorized)

7.9.6 *Abandonment of Non-conforming Status*

(a) *Abandonment*

If a non-conforming use or structure is abandoned, or a non-conforming lot ceases to be used, any future use of the premises shall be in conformity with the provisions of these Regulations, and with any other applicable City codes or ordinances that are in effect at the time the use is resumed or the structure is re-occupied.

(b) *Definitions of Abandonment*

A non-conforming use or structure shall be deemed "abandoned" in the following circumstances:

(1) The use ceases to operate for a continuous period of 180 calendar days;

(2) The structure remains vacant for a continuous period of 180 calendar days with all or some of the utilities disconnected, or if utility payments are delinquent; or

(3) In the case of a temporary use, the use is moved from the premises for any length of time.

(4) A non-conforming use or structure shall not be deemed "abandoned" for a period of up to one year on properties that are for sale or lease, provided the owner is actively promoting the sale or lease and there is evidence of continual use of signs, advertising or listings.

(5) Normal cessation of a use, or temporary discontinuance for purposes of maintenance and rebuilding after damage or destruction, as provided in this Section, shall not be included in calculating the period of discontinuance.

7.9.7 *Violation Not Authorized*

Nothing in this section shall be interpreted as authorizing approval of a building or premises that is in violation of the prior zoning ordinance on the effective date of these Regulations.

7.9.8 *Screening Non-conforming Commercial Uses of Property*

Within one (1) year from the time, any property is annexed to the city, all non-conforming commercial uses of property abutting residentially zoned property shall be screened from view in accordance with the regulations of Section 5.2 Screening and Landscaping and Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances.

7.10 Vested Rights, Petition, and Review Procedure

7.10.1 *Purpose*

The purpose of a vested rights petition is to determine whether one or more standards of these regulations should not be applied to a plan or application, or whether certain permits are subject to expiration.

7.10.2 *Applicability*

A vested rights petition may be filed for an application, permit, or plan required under these regulations in accordance with the procedures outlined in Section 25.3 Vested Rights Petition. Any property owner who believes that she or he has obtained a vested right shall submit to the City Secretary a petition letter explaining the factual and legal bases upon which the property owner relies in her or his contention that she or he has a particular vested right and, consequently, is exempt or not subject to a particular City order, standard, regulation, ordinance, rule, expiration date, or other properly adopted requirement (hereinafter referred to collectively as "regulations").

7.10.3 *Land Use Upon Annexation Validity & Lapse*

Vested rights in land use upon annexation shall be governed by Texas Local Government Code, Section 43.002, as amended.

7.10.4 *Permit, Plan or Planned Development Validity & Lapse*

(a) *Validity & Lapse of Approval:*

An application for or an existing Site Plan, Special Use Permit (SUP) Concept Plan, or Planned Development District Site Plan may be considered a "permit" as described in Chapter 245.005, Texas Local Government Code (Chapter 245) and herein be referred to as "required plans."

(1) A Required Plan shall not be considered a "permit" unless, it has been approved by the appropriate entity before the effective date of these regulations, or an application for a Required Plan is complete as of the effective date of these regulations.

(2) Two Year Validity of Permits - Any approved Required Plan shall be deemed expired two (2) years from the date on which the Required Plan was originally approved by the Council if no progress has been made toward completion of the project.

(3) Progress Benchmarks: The term "progress" shall be as defined as follows

a. Plans for construction and an application for a building permit for at least one of the buildings on the approved Required Plan are submitted within two (2) years following approval of the Required Plan.

b. A good-faith attempt is made to file with the City an application for a permit necessary to continue completion of the project

c. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent (5%) of the most recent appraised market value of the real property on which the project is located

d. Fiscal security is posted with the City to ensure performance of an obligation required by the City; or

e. Utility connection fees or impact fees for the project have been paid to the City

(4) Expiration: If anyone of the items listed in Subsection 2.a through 2.e above is not accomplished within the Tow Year Validity Period, the approved Required Plan shall expire upon the second (2nd) anniversary of its approval by Council, and shall become null and void.

(5) Extension & Reinstatement Procedure:

a. Prior to the lapse of the Two Year Validity Period, the applicant may petition the City (in writing) to extend the Required Plan approval.

b. Such petition shall be recommended for approval or denial by the Commission, and shall be granted approval or denial by the Council.

c. If no petition is timely submitted, then the Required Plan shall be deemed to have expired and shall become null and void. Any new request for Required Plan approval thereafter shall be deemed a "new permit", and shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this Section. The new request shall also be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.

d. In determining whether to grant a request for extension, the Commission and Council shall take into account the reasons for the lapse:

1. The ability of the property owner to comply with any conditions attached to the original approval, and
2. The extent to which new development regulations would apply to the Required Plan.

(b) *Planned Development District (PDD) Concept Plans –Validity and Expiration*

The applicant shall retain the following additional rights related to a Concept Plan approved prior to the effective date of these regulations.

(1) Preliminary Plat Submittal Within 2 Years Required. An application for a preliminary plat shall be submitted for approval within two (2) years of the date of approval of a Concept Plan, unless otherwise provided in the PDD adopting ordinance. If a preliminary plat consistent with the Concept Plan is not submitted within such period, the Concept Plan shall expire.

(2) Expiration of an Approved Concept Plan. Expiration of an approved Concept Plan shall result in suspension of the ability to submit a preliminary plat related to the original Concept Plan. A new Concept Plan must be submitted before the development process can continue.

(3) Expiration of an Approved Preliminary Plat.

a. The expiration of an approved preliminary plat shall be governed by the provisions of the City's Subdivision ordinance of the City's Code of Ordinances.

b. If a required development application (e.g., preliminary plat, final plat, building permit) is submitted within the two-year period, but such development application subsequently expires, the associated Concept Plan shall also expire.

(c) *Ability to Retain the Rights to the PDD Project*

The applicant shall retain the following rights related to a proposed Planned Development District following submittal and approved of a Concept Plan.

(1) Ability to Submit Applications for 5 Years. The applicant shall retain the ability to submit

a new Concept Plan for a period of five (5) years following the original approval of the Concept Plan. Such new Concept Plan may only be for a substantially similar PDD project. However, any such new Concept Plan shall adhere to any and all new standards and regulations that the City has adopted in relation to a Concept Plan and/or any other PDD application requirements.

(2) Expiration of Project in 5 years.

(3) Any PDD project for which no preliminary plat has been submitted for a period of five (5) years following the approval of the related Concept Plan shall expire on the last day of that five-year period.

(4) Commission Consideration. After such five (5) year period has ended and the project expires, the Commission shall consider whether the undeveloped land within PDD District should be changed to another zoning classification in accordance with the procedures for a zoning amendment pursuant to Section 7.2 Zoning Amendments of these Regulations. The Commission thereafter shall recommend to the Council whether the right to submit a preliminary plat or other development application for the same PDD project should be reinstated, or whether the property should be rezoned to another classification.

(5) Council Consideration. The Commission's recommendation (as outlined in Subsection 3 above) shall be considered by the Council in accordance with procedures for a zoning amendment pursuant to Section 7.2 Zoning Amendments of these Regulations. The Council shall determine whether the right to submit the preliminary plat or other development application for the same PDD project should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider the following factors:

a. Whether the PDD District remains consistent with the Comprehensive Plan;

b. Whether the uses authorized in the PDD district are compatible with existing and planned land uses adjacent to the site;

c. Whether there are extenuating circumstances justifying the failure to submit a preliminary plat or other development application during the applicable time period; and

d. Whether rezoning the property to another classification constitutes confiscation of a vested property right or deprives the owner of the economically viable use of the land.

(6) Council Action. Upon Subsections 2, 3 and 4 above occurring, the Council may take the following actions:

a. Reinstate the right to submit the preliminary plat or other development application for the original PDD project within a certain time period, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of land within the PDD district;

b. Modify the PDD district regulations applicable to the property; or

c. Repeal the PDD district for the affected portions of the property and zone such property to another zoning district classification.

7.10.5 *Vested Rights Petition*

(a) *Submission*

Any property owner who believes that he has obtained a vested right to continue his development shall submit to the Director of Community Development documentation explaining the factual and legal bases of his position in accordance with Section 25.3 Vested Rights Petition of the Subdivision Regulations. Such letter should include a complete explanation of the application of particular Shenandoah orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements (hereinafter referred to collectively as "regulations"). The request shall be processed and a determination of Vesting made in accordance with Section 25.3 Vested Rights Petition of the subdivision regulations.

7.11 Administrative and Enforcement Procedures

7.11.1 *Compliance Required*

All development of land within the incorporated boundaries of the City of Shenandoah or its extraterritorial jurisdiction as applicable, shall conform to the requirements of these Regulations. Within the city limits, no person may use, occupy, sell or develop land, buildings or other structures, or authorize or permit the use, occupancy, sale or development of land, buildings or other structures under his/her control, except in accordance with all applicable provisions of this Code. Within the City of Shenandoah's extraterritorial jurisdiction, no person may sell or develop land, or authorize or permit the sale or development of land, except in accordance with all applicable provisions of these regulations. The owner of any building, structure, or land, or part thereof, and any architect, builder, contractor, engineer, agent or any other person employed in connection therewith, who violates, orassists in or contributes to the commission of a violation of these regulations, shall be subject to prosecution of such violation and shall become liable for the penalties herein established.

7.11.2 *Suspension or Revocation of Permit*

When the City determines that a permit has been issued in error or on the basis of incorrect information, or that there has been non-compliance with the provisions of these regulations, the appropriate authority for permit issuance may suspend the permit or license pending compliance with these regulations. A permit may be revoked if compliance is not achieved within a reasonable period of time. Notice of suspension or revocation of any permit or certificate required by or issued pursuant to these regulations shall be sent to the permit holder by certified mail, return receipt requested. A permit or certificate may be immediately revoked if additional noncompliance with these regulations occurs after the permit has been suspended, or if it is determined that there is an immediate threat to individual or public safety or property damage is imminent.

7.11.3 *Notice of Intent to Suspend or Revoke*

Prior to the suspension or revocation of any permit or authorization the issuing authority shall give notice of the intent to suspend or revoke said permit or authorization, which notice may specify a reasonable time for compliance with these regulations. Upon receipt of such notice, no further work may proceed until agreement s to compliance is reached and entered in the city's records.

7.11.4 *Suspension or Revocation of Permits Conditioned by a Variance or Special Exception*

When the applicable Department determines that there is a failure to comply with any term, condition or requirement of a variance or special exception, the Director of Community Development or designee may suspend any permits pending compliance with the terms, conditions or requirements under which the variance or special exception was approved. The Board shall be notified of violations or failure to comply. The Board shall hold a public hearing no later than forty-five (45) days after notification of such failure to comply in accordance with Section 7.0 Administrative and Relief Procedures, of these regulations. If the Board determines that there is a failure to comply with any term, condition or requirement of the variance of special exception, it may

revoke the variance or special exception or take such action as it considers necessary to ensure compliance. Notice of the suspension or revocation of a permit shall be sent by certified mail, return receipt requested.

7.11.5 *Suspension and Revocation of PDD or Specific Use Permit Site Plan*

When the City determines that a PDD, Specific Use Permit Site Plan, or related construction plan has been approved in error or on the basis of incorrect information, or that there has been a failure to comply with the provision of these regulations, the Director of Community Development or designee, or Director of Public Works or designee, as appropriate, may suspend the approval of the site/construction plan until there is compliance with these regulations. The Director or designee may revoke the approval of the site/construction plan if compliance is not achieved within a reasonable time. Notice of suspension or revocation of the approval of a subdivision construction plan shall be sent by certified mail, return receipt requested. A PDD, Specific Use Permit or related site plans may be revoked by the City Council upon public hearing in accordance with Section 7, Administrative and Relief Procedures if violations of conditions are determined to exist.

7.11.6 *Enforcement*

(a) *Criminal Enforcement*

The violation of any of any provision of these regulations shall be unlawful and shall constitute a misdemeanor. Each day that the violation continues shall constitute a distinct and separate violation offense. Any criminal violation of these regulations shall be fined in an amount not to exceed $2,000 per offense. Nothing in this section shall limit in any manner the authority of the City to seek any injunctive or other Civil relief available under the laws of the State of Texas.

(b) *Civil Remedies*

If any building, structure, or land is used, constructed, maintained, repaired, or altered, or any development is undertaken in violation of these Zoning Regulations or Subdivision Regulations, the City may institute any appropriate action to prevent, restrain, correct or abate the violation authorized by the State of Texas, including but not limited to the following:

(1) To impose a civil penalty, not to exceed $2,000 a day, for the kinds of violations enumerated in Texas Local Government Code 54.012

(2) To enjoin violations or threatened violations of these regulations relating to the subdivision of land; and

(3) To recover damages from the owner of a tract of land in violation of these regulations in an amount adequate for the City to undertake any construction or other activity to bring about compliance with such regulation.

(4) The imposition of any penalty shall not preclude the City from instituting any other appropriate action to require compliance with these regulations and with any orders and determinations made pursuant to these regulations.

Section 8.0 **Definitions**

8.1 General Provisions

For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in the City of Shenandoah Zoning Ordinance, Section 8 as amended.

8.2 Clarification and Relationship of Terms

8.2.1 *Usage*

(a) *The following definitions are intended to provide descriptions for words and terms used within this Section. Absent any conflict, words and terms used in this Section shall have the meanings ascribed thereto in this Section*

(b) *For the purpose of these regulations, words used in the present tense shall include the future tenses; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not discretionary. The word "should" is that which ought to occur, but is not mandatory. The word "should" allows for interpretation.*

8.2.2 *Terminology*

"Person" includes an individual, partnership, organization, association, trust or corporation; a "building" includes any part thereof; "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied".

8.2.3 *Standard Wording*

Words not herein defined shall conform to standard American-English usage.

Examples and lists shall not be considered to be all-inclusive unless the content clearly states to the contrary.

8.2.4 *Present and Past Tenses*

Words used in the present tense include the future; words in the singular number include the plural number, and words used in the plural number include the singular number.

8.2.5 *Words Not Defined*

For any definition not listed in this Section, the definition found within the latest edition of Webster's Dictionary shall be used.

8.2.6 *Conflicts*

When words and terms are defined herein, and are also defined in other ordinance(s) of the City, shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Section shall control.

8.3 Words and Terms Defined

8.3.1 *Abuts/Abutting*

Having a common border with, or being separated from such common border by an alley or easement. This term implies a closer proximity than the term "adjacent." Also meaning "adjacent", "adjoining" and "contiguous to". It may also mean having a lot line in common with a right-of-way or

easement, or with a physical improvement such as a street, waterline, park, drainage ways or open space.

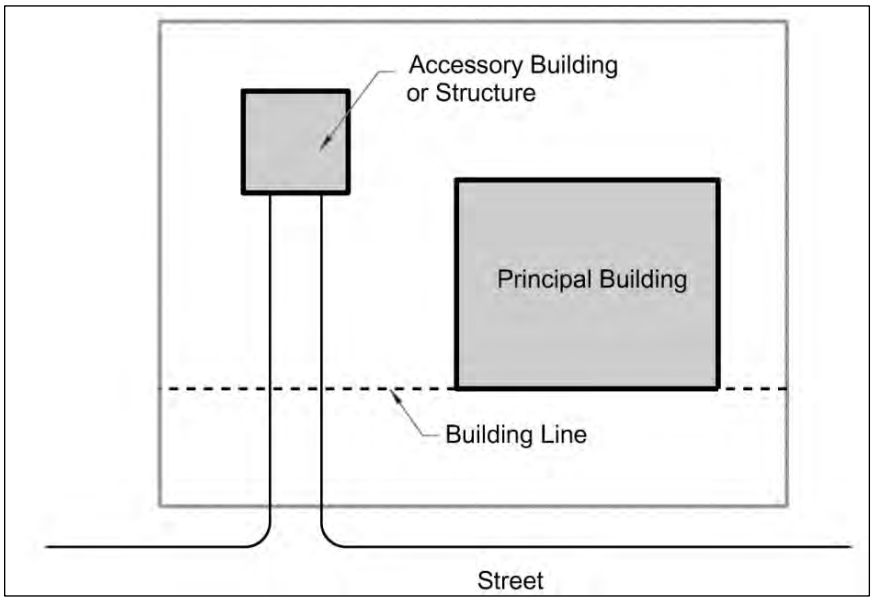
8.3.2 *Access*

A means of vehicular or pedestrian approach, entry to, or exit from a property. Also a means of approaching or entering a property. Includes a right of passage to and from an adjacent street, alley, or property.

8.3.3 *Accessory Building or Structure*

Except for buildings authorized by the Council pursuant to **Ordinance 2535**, an accessory building or structure is a building customarily incidental and appropriate and subordinate to the main building or use, or a proposed main building or use, and located on the same lot with the main building.

Illustration 8.3.3
Example of an Accessory Building



8.3.4 *Accessory Use*

Any use customarily incidental, appropriate and subordinate to the principal use of land or buildings located upon the same premises with the exception of family amusement centers, recreation centers, private clubs, bars, taverns, lounges, public pools, billiards and snooker parlors, dance halls, and foosball centers. Examples of accessory uses would include private swimming pools and private storage facilities.

8.3.5 *Accessory Use or Building*

A subordinate use or building customarily incidental to and located on the same lot occupied by the main use or building.

8.3.6 *Acreage, Gross*

The total area within a parcel of land

8.3.7 *Acreage, Net*

The total area within a parcel of land, less any rights-of-way, open space or land dedicated to public use.

8.3.8 *Adjacent*

Lying near or close to. (See Abuts/Abutting).

8.3.9 *Adult Entertainment Enterprise (Sexually Oriented Business)*

For definitions see Section 4.4.2 Adult Entertainment Enterprise within this Zoning Ordinance and Section 13.0 Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses of the Shenandoah Code of Ordinances.

8.3.10 *Alley*

A right-of-way or easement dedicated to public use which gives only a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes. A public way that is used primarily for vehicular access to the back or side of properties, and affords only secondary means of access to property abutting thereon.

8.3.11 *Amending Plat*

See Plat, Final

8.3.12 *Amenity*

Aesthetic or other physical improvements to a development that increase its quality, desirability, and/or marketability to the public. Amenities may vary according to the type and nature of development, and examples include a naturalized retention/detention pond (refer to definition herein), a recreational facility, landscaping, or large trees.

8.3.13 *Amusement Center, Family*

Any place of business lawfully containing eight (8) or more amusement devices, including but without limitation, coin-operated devices, bowling alleys, card tables or pool and billiard tables, operated in conjunction therewith, where persons of all ages and either sex are permitted on the premises.

8.3.14 *Apartment /Apartment House*

See Dwelling, Multifamily (Apartment).

8.3.15 *Appeal*

A request for review of and relief from any decision applying a provision of this Code and which is authorized pursuant to this Section 5.

8.3.16 *Application, Complete*

See Complete Application

8.3.17 *Approval*

"Approval" of any application, subdivision improvement plans, plat etc constitutes a determination by the official, board, commission or Council responsible for such determination that the application or

plans are in compliance with the minimum provisions of these Regulations. Such approval is not an "approval" of the engineering or surveying contained in the plans as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.

8.3.18 *Area of Lot*

See Lot Area

8.3.19 *Area Regulations*

The regulations controlling minimum lot area, minimum lot depth and width, maximum building area or coverage, as well as required front, side and rear yards, as contained in these Regulations and in the Zoning Ordinance.

8.3.20 *As-Built/Record Drawings*

A group of drawings that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The as built or record drawings should reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field. For the purposes of this Section, the terms "as-built drawing" and "record drawing" shall be interchangeable.

8.3.21 *Arterial Thoroughfare*

See Street, Arterial

8.3.22 *Association*

Usually a homeowners (HOA) or property owners association (POA). An incorporated or unincorporated nonprofit organization operating under recorded land agreements through which: a) each lot owner in a planned unit or other described land area is automatically a member; b) each lot is automatically subject to a charge for a proportionate share of expenses for the organization's activities such as maintaining common property, and (c) the charge, if unpaid, becomes a lien against the property.

8.3.23 *Automobile*

A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, buses, motor scooters, and motorcycles.

8.3.24 *Basement*

A story partly or wholly underground. For purposes of height measurement a basement shall be counted as a story when more than one-half (1/2) of its height is above the average level of the adjoining ground.

8.3.25 *Bed and Breakfast Inn or Facility(s)*

A dwelling or grouping of dwellings at which breakfast is served and sleeping accommodations are provided/offered in not more than eight (8) rooms or unattached units (e.g., cabins) for transient guests for compensation.

8.3.26 *Bikelane*

A portion of a street that has been designated for exclusive use by bicycles, and which is distinguished from the rest of the roadway by a painted stripe, lane markings or other similar devices.

8.3.27 *Block*

An area enclosed by streets. If said word is used as a term of measurement, it shall mean the distance along a side of a street between two (2) intersecting streets, or if the street is of a dead-end type, a block shall be considered to be measured between the nearest street and the end of such dead-end street.

8.3.28 *Block Length*

The distance, as measured along the street centerline, from one end of a row or group of lots to the other end. A block is determined by the streets along its boundary that surround one or more lots. Such streets shall be through streets, not cul-de-sac streets. A block adjacent to a cul-de-sac shall not be counted as a block.

8.3.29 *Board of Adjustments*

The appointed body in accordance with state law that is authorized to hear appeals, variances, special exceptions and other functions as designated in these regulations. Also referred to as the "Board."

8.3.30 *Boarding House*

A dwelling other than a hotel where, for compensation and by prearrangement for a definite period, meals or lodging and meals are provided for three (3) or more but not exceeding twelve (12) persons.

8.3.31 *Bond*

See Security.

8.3.32 *Building*

Any structure intended for the shelter, housing or enclosure of any individual, animals, process, equipment, goods or materials of any kind or nature. When separated by fire retardant dividing walls without openings, and meeting the requirements of the adopted building codes, each portion of such structure so separated shall be deemed a separate structure.

8.3.33 *Building or Buildable Area*

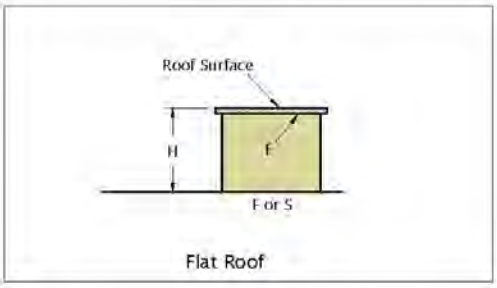
The portion of a lot or site, excluding required yard areas, setbacks or open space within which a structure may be built.

8.3.34 *Building Code*

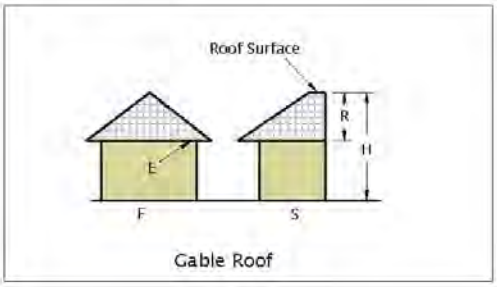
The adopted regulations contained in or referenced by the Shenandoah Code of Ordinances specifically related to the construction of buildings on private property, including those regulations contained in Chapter 14, Buildings and Building Regulation. Such regulations are typically enforced by the Building Official.

8.3.35 *Building, Height of*

The vertical distance from the average grade adjacent to the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the highest point of the eaves and ridge for gable, hip and gambrel roofs.



Flat Roof



Gable Roof

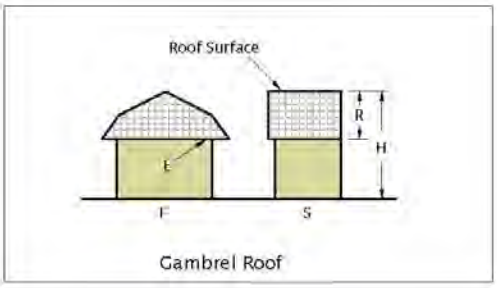
E - Eave Height

F - Front of Building

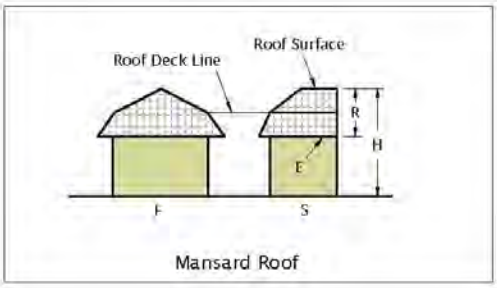
H - Height of Building

R - Roof Height

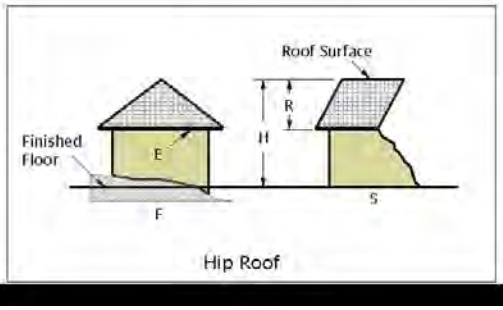
S - Side of Building



Gambrel Roof



Mansard Roof

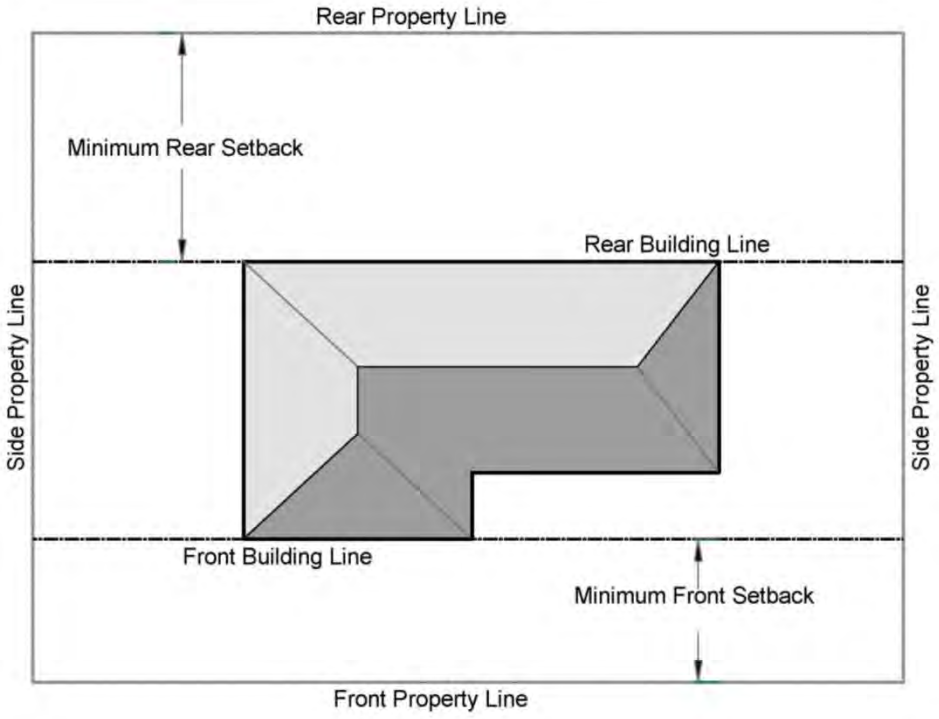


Hip Roof

8.3.36 *Building Line or Setback Line*

A line parallel, or approximately parallel, to any property line or street line if so designated at a specific distance there from, marking the minimum or maximum distance from the property line that a building may be erected, and marking the building envelope, the area in which a building may be erected. Also, a line at a specified distance from the street, marking the minimum distance from the street line that a building may be erected.

Illustration 8.3.35 Example of Building or Setback Lines
(Also see Illustration 8.3.202 and Illustration 8.3.403)



8.3.37 *Building, Main*

A building in which the primary use of the lot on which the building is located is conducted. In any residential zoning district, a dwelling shall be deemed to be a main building on the lot on which it is situated.

8.3.38 *Building Official – Building Permits & Inspections*

The individual that is the head of the Building Permits and Inspection Division and who ensures compliance with the Building Code of the City of Shenandoah, Texas, and with any applicable regulations within this Section. This definition also includes any designee of the Building Official.

Any person or city officer who is duly designated by official resolution of the Council to have the duty of enforcement of the regulations contained in this chapter. The city administrator or his designee shall serve as the building official until such is changed by resolution of the Council.

8.3.39 *Building Permit*

An instrument in writing signed by the Chief Building Official –Building Permits & Inspections or other designated Responsible Official authorizing described construction on a particular lot.

8.3.40 *Building Site*

A single parcel of land occupied or intended to be occupied by a building or structure.

8.3.41 *Business Day*

A business day is any day of the week that is not Saturday or Sunday and does not include holidays observed by the City of Shenandoah.

8.3.42 *Carport*

A permanent roofed structure permanently open on at least two (2) sides, designed for or occupied by private passenger vehicles.

8.3.43 *Carwash*

A commercial establishment primarily engaged in washing, waxing and polishing motor vehicles, or in furnishing facilities for the self-service washing of motor vehicles.

8.3.44 *Centerline, Streets or Alleys*

An imaginary line erected midway between the bounding right-of-way lines of a street or alley. Where the bounding right-of-way lines are irregular, the centerline is to be determined by the Subdivision Improvement Plan Engineer. Where the street is private, the centerline shall be measured from the easement boundaries rather than right-of-way.

8.3.45 *Certificate of Convenience and Necessity (CCN)*

A permit issued by the Texas Commission on Environmental Quality (TCEQ) which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area.

8.3.46 *Certificate of Occupancy*

Official certification which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit. A written instrument executed by the Chief Building Official – Building Permits & Inspections authorizing a described use of a lot or building as set forth in the Building Code and in this Section.

8.3.47 *Certify*

Whenever it is required that an agent or official attest to the existence of some fact or circumstance, the City by administrative rule may require that such declaration be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the declaration.

8.3.48 *Childcare Center*

For definition, see Section 4.4.17 Childcare Center and Adult Day Care Center within this Zoning Ordinance.

8.3.49 *Church/Synagogue/Temple*

A building or structure, or group of buildings or structures, which by design and construction is primarily intended for the conducting of organized religious and/or worship services. Accessory uses may include a parsonage/rectory, school, offsite parking lots and/or a fellowship hall. Accessory uses, however, shall be allowed and regulated in the same manner as similar uses in the same zoning district.

8.3.50 *City*

The City of Shenandoah, Texas.

8.3.51 *City Administrator*

That person holding the office of City Administrator under the terms of the Shenandoah Charter.

8.3.52 *City Attorney*

The licensed attorney designated by the Council to furnish legal assistance for the administration of these regulations.

8.3.53 *City Council*

The elected body that governs the City of Shenandoah under state law and is authorized to adopt ordinances. It is responsible for the acceptance and maintenance of any offered dedications indicated on a plat by entry use or improvement within the City Limits. The governing or legislative authority of the City of Shenandoah. Also referred to as "Council.'

8.3.54 *City Planner*

See Community Development Director - Planning

8.3.55 *City Secretary*

That person holding the office of City Secretary under the terms of the Shenandoah Charter, or an authorized representative.

8.3.56 *City Standards*

All of the City's technical standards and specifications that apply to development, together with all tables, drawings, and other attachments. All City standards described or referred to in this Section are adopted by reference and are a part of this Section in the same way as if they were set out at length herein. See also the City of Shenandoah Design Manual (SDM).

8.3.57 *Clearing*

The removal of surface vegetation without modifying, impacting, or improving the drainage pattern(s)

8.3.58 *Clinic*

A healthcare facility where patients are admitted for medical examination and treatment by one or more physicians, dentists, psychologists, social workers or other health care professionals, and where patients are not lodged overnight.

8.3.59 *Club*

A building, portion thereof, or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose, but not primarily for profit or to render a service that is customarily carried on in a business.

8.3.60 *Cluster Development*

See Subdivision, Cluster

8.3.61 *Code*

The adopted code of ordinances of the City of Shenandoah titled The Shenandoah Municipal Code.

8.3.62 *Collector Street*

See Street, Collector

8.3.63 *Commence(ing) Construction*

The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or development.

8.3.64 *Commission*

See Planning and Zoning Commission (Commission) (P&Z)

8.3.65 *Community Development Director - Planning*

The Community Development Director or their designee of the City of Shenandoah, Texas, or the City Administrator or designee's representative. The Community Development Director or an authorized designee, appointed by the City Administrator to coordinate the subdivision review process, gather all staff comments and recommendations and convey such recommendations to the Commission and Council. The Community Development Director - Planning is also authorized under these Regulations to approve certain plats.

8.3.66 *Compatibility*

The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

8.3.67 *Complete Application*

An application that meets the standards of the Section and has been deemed complete by the City in accordance with Section 24.1.2 Application Completeness and Expiration of this Subdivision Regulations and the Texas Local Government Code, Chapter 245, or successor statute.

8.3.68 *Comprehensive Plan*

The official Shenandoah Comprehensive Plan titled “The Plan for Shenandoah” as adopted by the Council of the City of Shenandoah, containing policies concerning present conditions and future growth of Shenandoah.

8.3.69 *Concept Plan*

A component of the regulations for a Planned Development District that complies with the requirements of the Zoning Ordinance and the Subdivision Ordinance that illustrates elements of the proposed Planned Residential District, such as the location and arrangement of uses, the relationship

of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development.

8.3.70 *Condominium*

A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

8.3.71 *Construction*

See Development

8.3.72 *Construction Plans*

The drawings and technical specifications that conform to this Section and all other applicable ordinances of the City of Shenandoah. Construction plans, including bid documents and contract conditions, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development. See also Plans, Subdivision Improvement.

8.3.73 *Convenience Store*

A typically freestanding, small market that is designed to be easily accessible; frequently offers extended service hours; and aims for fast convenient service, purchase of necessities, staple goods, automobile and household items (limited choice and stock), snack food, hot coffee and/or food, with or without gasoline service.

8.3.74 *Conversion*

Changing the original purpose of a building to a different use or a room within a building or any portion thereof.

8.3.75 *Corner Lot*

See Lot, Corner

8.3.76 *Corporate Limits*

The boundaries of the City of Shenandoah.

8.3.77 *Council*

See City Council

8.3.78 *County*

The County of Montgomery, Texas

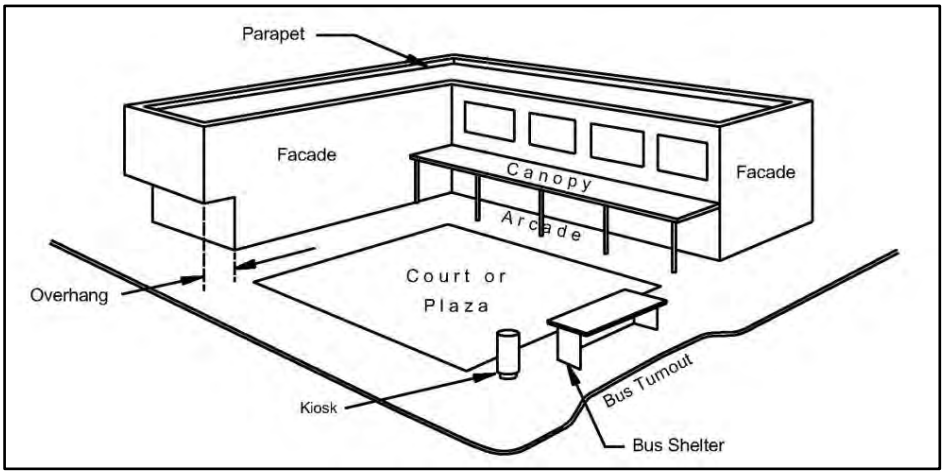
8.3.79 *County Commissioners' Court*

The court of the county of Montgomery which is responsible for the maintenance of any offered dedications indicated on a plat by entry, use, or improvement within the extraterritorial jurisdiction

8.3.80 *Court*

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

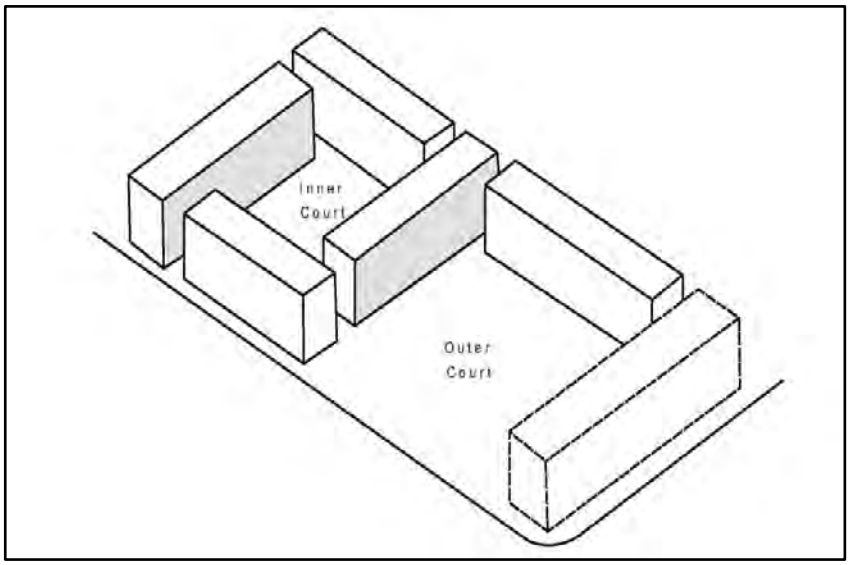
Illustration 8.3.79
Example of a Court



8.3.81 *Court, Inner*

A court other than an outer court. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

Illustration 8.3.80
Example of Inner and Outer Courts.



8.3.82 *Court, Outer*

A court the full width of which opens onto a required yard, or street or alley. The width of an outer court is the minimum horizontal dimension measured in the same general direction as the yard, street or alley upon which the court opens. The depth of an outer court is the minimum horizontal dimension measured at right angles to its width.

8.3.83 *Covenant, Restrictive*

A private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded. Also referred to as a "deed restriction." A private legal restriction on the use of land usually set forth or referred to in the deed. Such covenants shall run with the land and are binding upon present and subsequent owners of the property.

8.3.84 *Coverage, Building*

The percentage of lot area covered by all buildings (e.g., main and accessory buildings), but shall exclude all overhanging roofs, covered or uncovered patios, porches and carports.

8.3.85 *Coverage, Impervious Surface*

The percentage of lot area covered by any impervious surfaces, such as main and accessory buildings, driveways, concrete patios, carports, and other surfaces that do not absorb water.

8.3.86 *Cul-de-sac*

A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement. A local street having one (1) inlet/outlet to another street and terminates on the opposite end by a vehicular turnaround. A cul-de-sac has no intersections with other streets other than the one inlet/outlet.

8.3.87 *Deed*

A document under seal that states a conveyance of title to real property.

8.3.88 *Deed Restriction*

See Covenant, Restrictive

8.3.89 *Density*

The average number of housing units per unit of land generally expressed as "dwelling units per acre." May be specified as either gross density (i.e., the number of dwelling units per acre based on total land area being considered) or net density (i.e., the number of dwelling units per acre excluding area in street right-of-way and publicly owned property).

8.3.90 *Depth of Lot*

See Lot Depth

8.3.91 *Developer*

A person or governmental entity undertaking the division or improvement of land and other activities covered by this Section, including the preparation of a plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the terms "subdivider" and, when submitting platting documents, "applicant."

8.3.92 *Development*

Initiation of any activities related to the platting or subdivision of land or construction, reconstruction, conversion, or enlargement of buildings or structures, the construction of impervious surfaces (e.g., parking lots), the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, paving, clearing, filling, or removal of soil, and any mining, dredging, excavation or drilling operations.

8.3.93 *Development Agreement*

An agreement authorized and in accordance with Section 212.172 of the Texas Local Government Code between the City and a property owner in the extra-territorial jurisdiction.

8.3.94 *Development Application*

Either a petition for a legislative decision, such as a zoning amendment, or an application for a development permit, such as a plat or a building permit.

8.3.95 *Development, Infill*

A new development on scattered or aggregated vacant parcels of land in a built up area.

8.3.96 *Development Permit*

A decision by the Commission, Board or Responsible Official designated by this Section, acting in an administrative or quasi-judicial capacity, that authorizes the holder of the permit to undertake one or more development activities or to file further applications needed to initiate or continue development activities authorized under this Section. The filing of a complete application for a development permit may or may not stay the City from adopting new standards applicable to the permit or any subordinate permit, depending on the nature of the standards.

8.3.97 *Development Plan*

See Land Study

8.3.98 *Development Review Committee*

Also known as the "DRC." The committee of the City comprised of representatives of City departments and may include other agencies that are responsible for recommending implementation of subdivision ordinance requirements. They also assist the Community Development Director in the coordinating review and approval of subdivision plats.

8.3.99 *Development Standards*

All regulations, design standards, requirements and restrictions that apply to a development.

8.3.100 *Director*

The Community Development Director of the City of Shenandoah, Texas, or his/her authorized designee.

8.3.101 *Director of Community Development*

The Engineer designated by the City Administrator to furnish engineering assistance, approval of construction drawings as to compliance with City Codes, inspection and acceptance of public improvements in the administration of this Subdivision Ordinance.

8.3.102 *Driveway*

An entranceway serving primarily vehicles that allows for access to a lot or facility, and is intended for vehicular movements between the roadway and any portion outside the street right-of-way.

8.3.103 *District*

See Zoning District.

8.3.104 *Dormitory*

A building intended or used principally for sleeping accommodations where such building is related to an educational or public institution, including religious institutions.

8.3.105 *Duplex*

See Dwelling, Two-family (duplex).

8.3.106 *Dwelling (General Definition)*

Any building, or portion thereof, which is designed or used as living quarters for one or more families. For the purposes of these Regulations, manufactured homes, mobile homes, recreational vehicle, or travel trailers are not considered dwellings.

8.3.107 *Dwelling Unit*

Any building or portion thereof, which is arranged, occupied or intended or used for residential purposes, including facilities for food preparation, sleeping and bathrooms, and which are not occupied by more than one family. A dwelling does not include boats, trailers, motor homes, hotels, motels, motor lodges, boarding or lodging houses.

8.3.108 *Dwelling, Attached*

A dwelling having any portion of one or more of its walls in common with adjoining dwelling(s).

8.3.109 *Dwelling, Detached*

A dwelling having open space on all sides.

8.3.110 *Dwelling, Multifamily (Apartment)*

A building designed for occupancy by five (5) or more families living independently of each other. All of the units, however, are located on one lot under one ownership. The units may or may not be separately owned. (See Condominium)

8.3.111 *Dwelling, Single-Family*

A building designed to be occupied by one family.

8.3.112 *Dwelling, Single-Family Attached*

A dwelling which is joined to another dwelling at one or more sides by a fire retardant party wall or abutting separate wall, and which is designed for occupation by one family.

8.3.113 *Dwelling, Single-Family Detached*

A dwelling which is designed and constructed for occupancy by one family, and located on a lot or separate building tract, and having no physical connection to a building located on any other lot or tract.

8.3.114 *Dwelling, Town Home or Townhouse*

A building designed for occupancy by three (3) or more families living independently of each other. The three (3) or more units are placed adjacent to one another, with structural parts touching. Each of the units, however, is located on a separate lot.

Illustration 8.3.113 Example of Townhouse

8.3.115 *Dwelling, Two-family (Duplex)*

A detached building that has two dwelling units with separate accommodations for, and occupied by, not more than two families living independently of each other on the same lot.

8.3.116 *Dwelling, Three family (Triplex)*

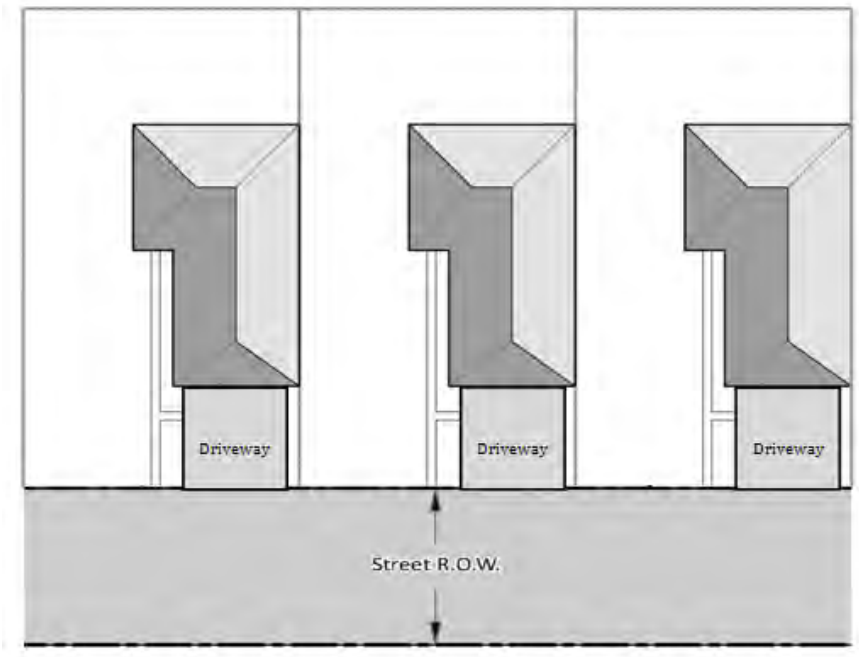
A detached building that has three dwelling units with separate accommodations for, and occupied by, not more than three families living independently of each other on the same lot.

8.3.117 *Dwelling, Four Family (Fourplex)*

A detached building that has four dwelling units with separate accommodations for, and occupied by, not more than four families living independently of each other on the same lot

8.3.118 *Dwelling, Zero Lot Line or Patio Home*

A single-family dwelling on a lot where one outside wall of a structure is located on the side property line and the setbacks on three sides are met.



8.3.119 *Easement*

A grant, not in fee simple, by a property owner to the use of land by the public, a corporation, or persons for specific purposes such as the construction of utilities, drainage ways, and roadways.

8.3.120 *Easement, Emergency Access*

An area created by plat or separate instrument filed with the office of the county clerk other than a dedicated street or place, or an alley, which is maintained free and clear of buildings, structures and other obstructions for the purpose of providing free passage of service and emergency vehicles.

8.3.121 *Easement, Private*

An easement granted for the limited use of private land where general use and maintenance of such easement is governed by an agreement that runs with the land. A private easement may include certain improved portions of private land which are intended for the general use, enjoyment, convenience and benefit of all signatories, owners and lessees, and their permittees, including to but not limited to, parking areas an spaces, roadways (including roads or lateral access drives), driveways, entrances to dedicated public or private streets, sidewalks, landscaped areas, and truck loading or delivery areas.

8.3.122 *Easement, Public*

An easement dedicated by subdivision plat or metes and bounds to and for general use by the public, and which is included within the dimensions or area of lots or parcels.

8.3.123 *Easement, Utility*

An easement dedicated by subdivision plat or metes and bounds to and for use by the public solely for utilities, either public or franchise, and which is included within the dimensions or area of lots or parcels.

8.3.124 *Enforcing Officer*

The designated official of the City of Shenandoah or his/her designated representative that ensures that regulations are adhered to and standards required are met.

8.3.125 *Engineer*

A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas. (Also known as "Engineer", "Professional Engineer", "Registered Engineer", "Registered Professional Engineer", or "Licensed Engineer")

8.3.126 *Environmental Protection Agency (EPA)*

The U.S. Environmental Protection Agency, or, where appropriate, the administrator or other duly authorized official of that agency.

8.3.127 *Erect*

To construct, reconstruct, install or build.

8.3.128 *Erosion*

The wearing away of land surface by detachment and transport of soils by water and wind.

8.3.129 *ETJ*

See Extraterritorial Jurisdiction (ETJ)

8.3.130 *Evergreen Vegetation*

A plant or tree growth that retains its foliage throughout the year.

8.3.131 *Excavation*

Any digging, trenching, scraping or other activity that disturbs natural soil or rock to a depth of two feet (2') or more, other than soil disturbance incidental to the removal of trees or vegetation.

8.3.132 *Exception*

A grant of relief to a person from the requirements of these Regulations under certain conditions when specific enforcement would result in unnecessary hardship. An exception, therefore, permits construction or development in a manner otherwise prohibited by these Regulations. Also, see Waiver.

8.3.133 *Exemption*

A specified reason why a particular development is not subject to the requirements to plat or to a specific provision of these Regulations.

8.3.134 *Extraterritorial Jurisdiction (ETJ)*

The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City of Shenandoah, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distance of five (5) miles as stipulated in Chapter 42 of the

Texas Local Government Code and in which area the City may regulate subdivisions and enjoin violation of certain provisions of this Section.

8.3.135 *Facility*

A structure, building, or group of buildings built or installed to perform a particular or specific function.

8.3.136 *Family*

An individual, or two (2) or more persons related by blood or marriage, including adopted children, or a group of not to exceed five (5) unrelated persons, not all related by blood or marriage, occupying premises and living as a single nonprofit housekeeping unit; as distinguished from a group occupying a boarding or lodging house or a hotel.

8.3.137 *Farm, Agricultural*

An area used for the production thereon of farm crops such as vegetables, fruit trees, cotton, or grain, and the storage of such crops.

8.3.138 *Farm, Ranching and Livestock*

An area used for the raising thereon of the usual farm animals such as horses, chickens, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing animals on the premises, but not including within the City Limits the commercial feeding of offal or garbage to swine or other animals and not including any type of husbandry specifically prohibited by ordinance or law.

8.3.139 *Filing*

See Submission

8.3.140 *Filing, Plat*

See Recording

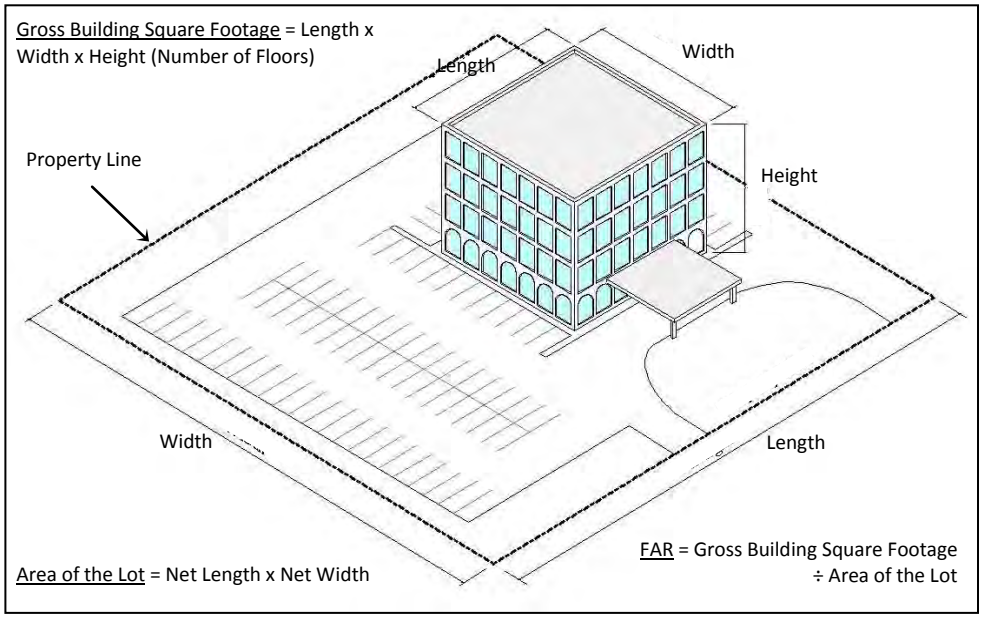
8.3.141 *Final Plat*

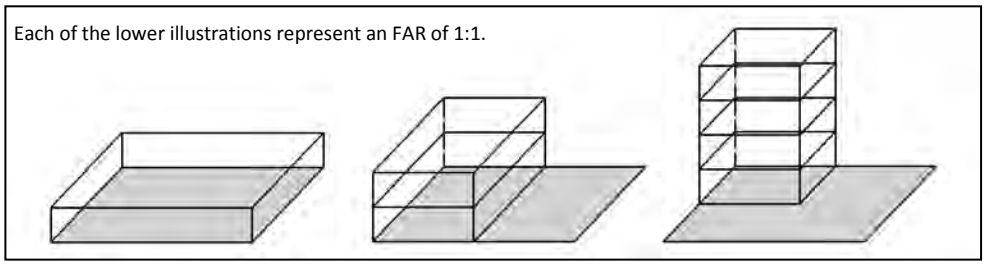
See Plat, Final

8.3.142 *Floor Area Ratio*

A mathematical expression determined by dividing the gross floor area of a building by the area of the lot on which it is located.

Illustration 8.3.141
Example of Floor Area Ratio (F.A.R.) Calculations





8.3.143 *Floor Area, Gross*

The sum of the gross horizontal areas of all of floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) buildings, and including but not limited to, the following spaces:

- Basements;
- Elevator shafts and stairwells at each floor;
- Floor space for mechanical equipment with structural headroom of seven (7) feet;
- Penthouses;
- Attic space providing headroom of seven (7) feet or more;
- Interior balconies, mezzanines and enclosed covered porches and enclosed steps;
- Accessory uses in enclosed covered space, but not including space used for off-street parking.

8.3.144 *Floor Area, Net*

The total floor area within a building devoted or intended to be devoted to a particular use, with structural headroom of seven (7) feet or more, whether above or below the finished lot grade, excluding (a) elevators, stairwells, hallways, walls and partitions, and (b) floor space permanently devoted to a parking space or parking spaces, mechanical equipment, closets, washrooms, or other items permanently preventing the floor space from being occupied by persons while engaged in the use.

8.3.145 *Freeway*

See Street, Freeway

8.3.146 *Frontage*

Property dimension one (1) side of a street measured along the line of the street.

8.3.147 *Frontage, Block*

All of the property on one side of a street, between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is a dead end street, then all of the property abutting on one side of the street and the dead end of the street.

8.3.148 *Frontage, Lot*

The distance for which the front boundary line of the lot and the street line are coincident.

8.3.149 *Frontage, Street*

All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead-ended, then all the property abutting on one side between an intersecting street and dead-end of the street.

8.3.150 *Garage Apartments*

A dwelling unit for one (1) family erected above a private garage, or in an existing private garage that is converted to such use. Also known as a “mother-in-law apartment” and/or “servants quarters.”

8.3.151 *Garage, Private*

An accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory.

8.3.152 *Garage, Public*

A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor driven vehicles.

8.3.153 *Grade*

The horizontal elevation of any surface specified in percentage terms.

8.3.154 *Grade, Building*

The average elevation of the highest and lowest elevation measured at the finished surface of the ground at any of the exterior corners of the building or structure.

8.3.155 *Grading*

Any excavating or filling or combination thereof, including a) the conditions resulting from any excavation or fill, or b) any alteration of the natural drainage pattern, or c) the removal or rearrangement of surface soil.

8.3.156 *Gross Leasable Area*

The total floor area designed for occupancy and exclusive use. The area of tenant occupancy is measured from the centerlines of joint partitions to the outside of the tenant walls.

8.3.157 *Groundcover*

A spreading plant, including sods and grasses less than 18 inches in height, used mainly for erosion control.

8.3.158 *Group Home*

Group homes for handicapped, impaired, aged, and disabled persons shall mean a shared residential living arrangement which provides a family type environment for handicapped or impaired persons, supervised by one or more primary care givers subject to compliance with the conditions listed in Section 4.3.14 Group Home, and 4.10.2 Group Care Facility.

(a) *As used in this section, with respect to a person, "handicap" means:*

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities, as defined in subsection b., below;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined by Chapter 481 of the Texas Health and Safety Code.

(b) *As used in this section, "physical or mental impairment" includes:*

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, pre-senile dementia, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotion illness, drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism.

(3) For purpose of this exception, "major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

8.3.159 *Health Department*

The Texas **State Department of Health** and/or the Shenandoah Health Department.

8.3.160 *Height*

See Building, Height of

8.3.161 *Height Regulations*

Regulations that limit the height of buildings within particular zoning districts. Such regulations may establish both a basic maximum height of a structure and a maximum height based on the relationship of a structure to surrounding properties.

8.3.162 *Home for the Aged*

See Nursing Home

An occupation carried on in a dwelling unit by the resident thereof, if the use is limited in extent, incidental, and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof. See Section 4.2.9 Home Occupation.

8.3.163 *Hospital*

A health care facility which provides primary health services and medical or major surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical and/or mental conditions, and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities or training facilities. This definition shall include inpatient psychiatric hospitals and alcohol/drug treatment facilities.

8.3.164 *Hotel/Motel*

A building for the overnight or temporary lodging of travelers for compensation. A hotel/motel may be either a full-service hotel/motel, a limited-service hotel/motel, or an extended-stay or suite hotel/motel.

(a) *Full-Service Hotel/Motel*

A hotel/motel offering not only the types and amounts of amenities of a limited-service or extended-stay or suite hotel/motel but also to include, but not [be] limited to, guest rooms along with full food and beverage service for three meals per day made available to the guests; meeting space at a minimum square footage as defined in these Regulations, a swimming pool, exercise room and/or outdoor recreation services and other amenities or appurtenances as recognized by hotel/motel rating systems such as Mobil, AAA, Zagats and others as deemed appropriate by the city.

(b) *Limited-Service Hotel/Motel*

A hotel/motel offering guest rooms with food and beverage service for fewer than three meals per day and less than the minimum square footage of a full-service hotel/motel.

(c) *Extended-Stay Hotel/Motel*

A hotel/motel offering kitchen or kitchenette facilities in the majority of the guestrooms. For the purpose of this term, kitchen or kitchenette facilities in guestroom shall include a full-size refrigerator or under counter refrigerator and a cook top with two or more burners and/or a conventional oven. The presence of a sink, microwave oven, and/or an under counter refrigerator shall not constitute a kitchenette or kitchen in a hotel guestroom. They may be leased to corporations or individuals, and designed to be occupied longer than the usual hotel stay.

(d) *Inn*

An Inn shall be considered an Extended-stay or suite hotel/motel in accordance with the definition herein.

(e) *Suite Hotel/Motel*

A hotel/motel where the majority of the rooms are suites, each with a parlor and sleeping room separated by a floor to ceiling partition. A full service hotel/motel and a limited service hotel/motel may also be a suite hotel.

8.3.165 *Impervious Coverage*

Impervious coverage shall include all of the square footage under the definition of building coverage, plus driveways, decks that do not allow rainwater to be directly absorbed by the ground, patios, sidewalks, and walkways, decking surrounding swimming pools, tennis courts, basketball courts or other similar facilities constructed with an impervious surface. Surfaces such as brick pavers, laid stones, slate or timber with open joints, shall all constitute 50% of impervious surface coverage. Surfaces such as gravel, loose stones, special paver stones with voids for grass, and timber decks with open joints shall constitute 25% impervious surface coverage.

8.3.166 *Improved Lot or Tract*

A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

8.3.167 *Improvement*

Any man-made fixed item that becomes part of or placed upon real property.

8.3.168 *Improvement, Public*

Any improvement, facility or service together with its associated public site, right-of-way or easement necessary to provide transportation, drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City may ultimately assume the responsibility for maintenance and operation or ownership, or both.

8.3.169 *Improvement, Temporary*

Improvements built and maintained by a subdivider during construction of the subdivision and removed prior to the acceptance of the improvements for maintenance or the release of any bond required if they are located within the subdivision. Temporary improvements built outside of the subdivision shall be removed when they are no longer necessary as approved by the Subdivision Improvement Plan Engineer.

8.3.170 *Intensity*

The degree to which land is used, referring to the relative level of activity of a land use, including, but not limited to, a floor area ratio, building coverage ratio, or impervious surface ratio.

8.3.171 *Interested Person*

A person who is affected by a final decision of the City to the extent that such impact exceeds the impact of the decision on a member of the public. An interested person may include any officer or agency of the City.

8.3.172 *Intersection*

The junction of any two public rights-of-way crossing at grade.

8.3.173 *Kennels*

See Chapter 8 of the Shenandoah Code.

8.3.174 *Landlock*

To prevent access to a lot or parcel of land that has no other legal surface access to a public street.

8.3.175 *Landscaping*

The improvement of a lot, parcel, or tract of land with grass, shrubs, and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects, such as fountains, statuary and other familiar natural or artificial objects and as otherwise defined in Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance) of the Shenandoah Code of Ordinances. An area devoted to and maintained predominantly with living plant material including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements. Also may be referred to as Landscaped Area.

8.3.176 *Landscape Surface Ratio (LSR)*

The area of permeable landscaped surface divided by the area of land proposed for development, excluding right-of-way.

8.3.177 *Land Study*

The initial plan for a subdivision to be developed in phases that delineates the sequence and timing of development within the proposed subdivision and that is reviewed and decided under Section 21.0 Subdivision Procedures of these Regulations. It is a plan submitted for the purpose of implementing an integrated development scheme for all phases of a proposed development and to foster consensus regarding compliance with these Regulations. For the purpose of vesting, a Land Study must meet all requirements of these Regulations.

8.3.178 *Land Use*

The purpose for which land, or the structure on the land, is being utilized.

8.3.179 *Limited Use*

A use that is permitted subject to administrative review of the limited use provisions. Such provisions may restrict or, in some cases, prohibit the limited use from being developed on a particular tract of land.

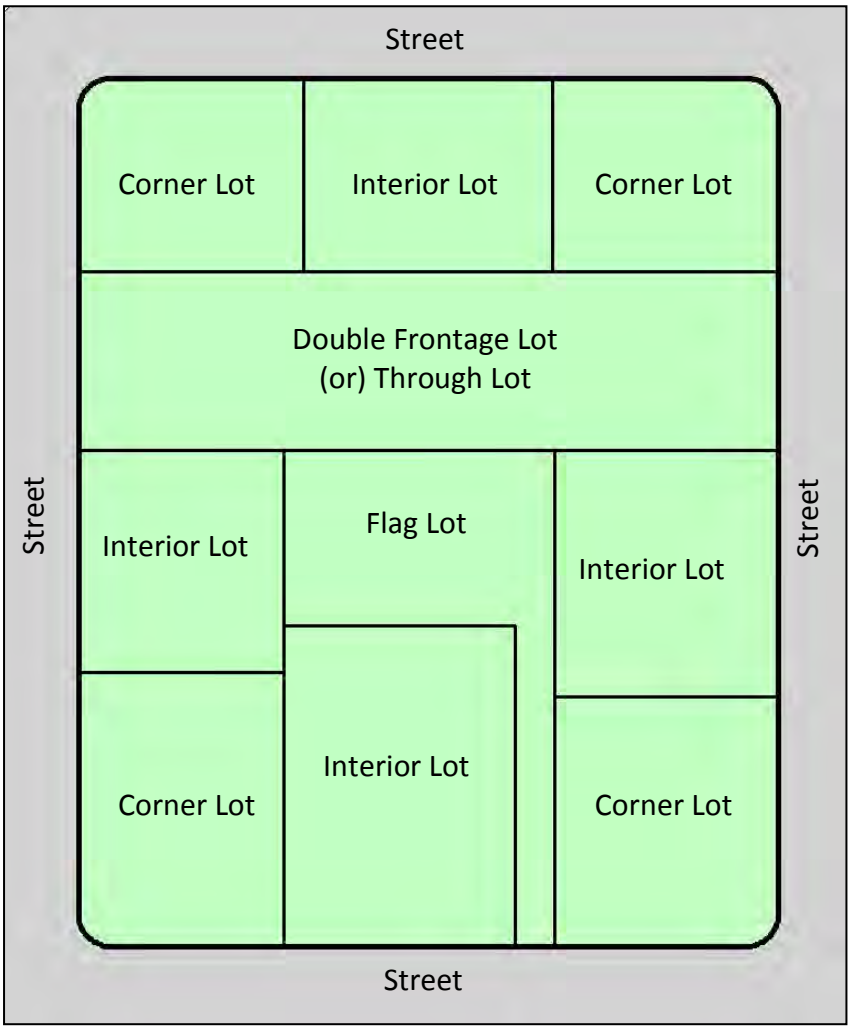
8.3.180 *Loading Area*

A space within a main building or on the same lot with the main building which provides for the standing, loading or unloading of trucks, and which has a minimum dimension of ten feet by 25 feet, and a vertical clearance of at least 14 feet.

8.3.181 *Lot*

As defined in the Subdivision Ordinance.

Illustration 8.3.180
Example of Lot Types



8.3.182 *Lot of Record*

As defined in the Subdivision Ordinance.

8.3.183 *Lot Area*

The total area circumscribed by the boundaries of a lot, except when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line.

8.3.184 *Lot Coverage*

The proportion of lot or site covered or permitted to be covered by a building or structure. Percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot.

8.3.185 *Lot, Corner*

A lot of which at least two (2) adjacent sides abut for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five (135) degrees.

8.3.186 *Lot Depth*

The average horizontal distance between the front and rear lot lines.

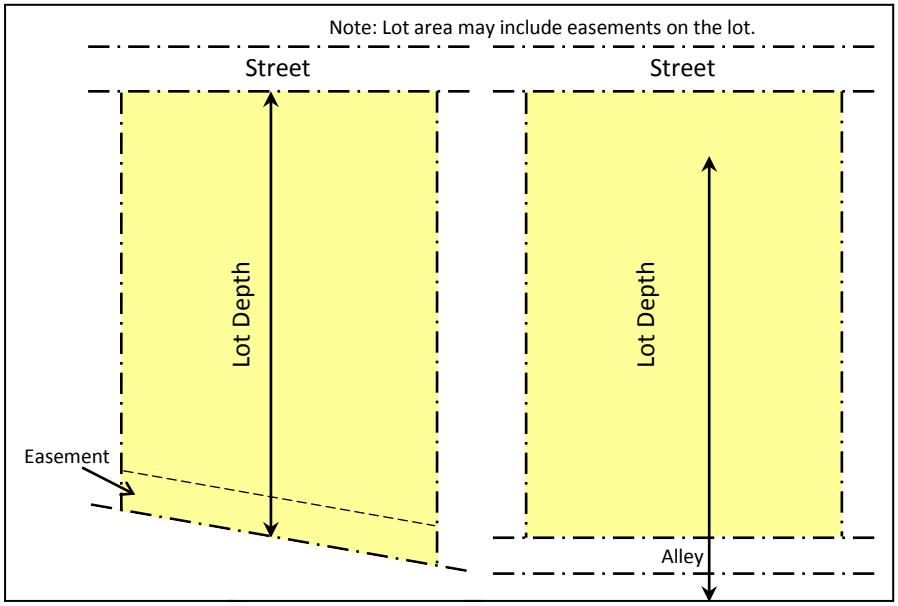
(a) *The distance between the front and rear lot lines, measured as follows:*

(1) Where the lot lines are straight, from the midpoints thereof

(2) Where the lot line curves in or out, from the midpoint of the arc between the side property lines;

(3) Where there is no rear lot line, the lot depth shall be the length of a straight line connecting the bisecting point of the front lot line and the intersection of the two sidelines

Illustration 8.3.185
Example of Lot Depth



8.3.187 *Lot, Double Frontage*

Any lot having frontage on two streets which are nonintersecting or which intersect at an angle of less than or equal to seventy degrees with reference to the lot, as distinguished from a corner lot.

A lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot. As shown in Illustration 8.3.192 Example

8.3.188 *Lot, Flag-Shaped or Panhandle*

An irregularly shaped lot that takes its sole access via a long, narrow strip of land connecting the principal building site to a public street.

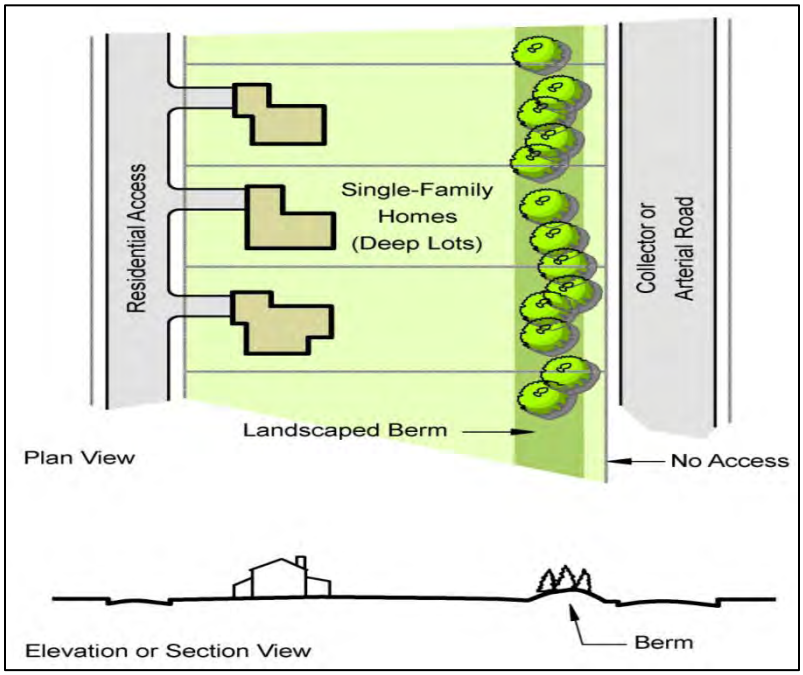
8.3.189 *Lot, Frontage*

That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

8.3.190 *Lot, Reverse Frontage*

A double frontage lot that is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Illustration 8.3.189
Example of Reverse Frontage Lots



8.3.191 *Lot, Interior*

A lot other than a corner lot and bounded by a street on only one (1) side. Example shown in Illustration 8.3.182.

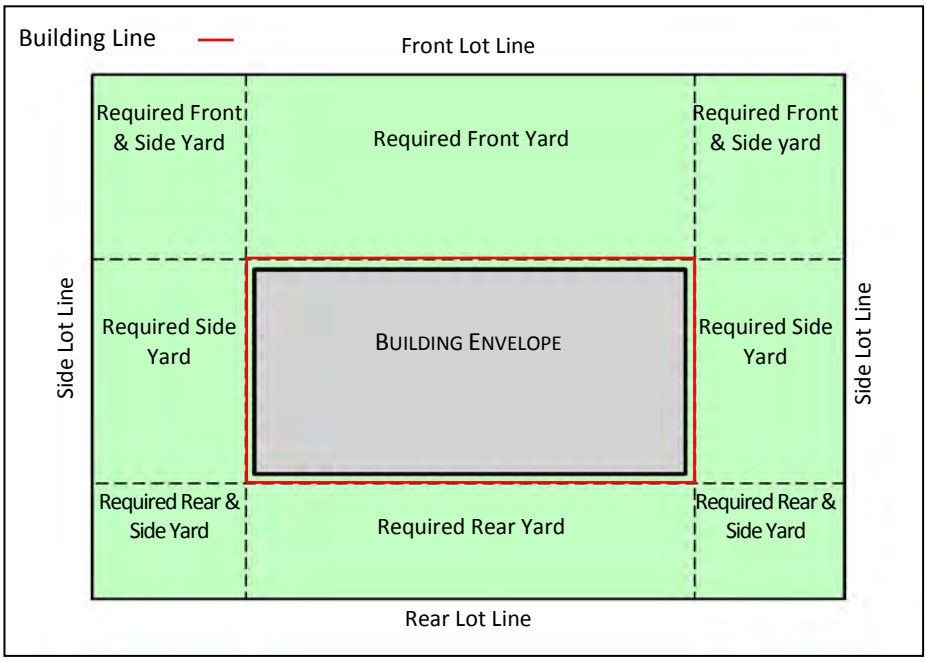
8.3.192 *Lot, Key or Keyed*

Any lot having an essentially trapezoidal shape, with a rear boundary greater in width than the front boundary and located on a street curve having a centerline radius less than two hundred and fifty feet (250').

8.3.193 *Lot Lines*

A property (ownership) boundary of a lot, as defined herein. The lines bounding a lot. Illustration example shown in Section 8.3.35 Building Line or Setback Line.

Illustration 8.3.192
Building Line & Envelope



8.3.194 *Lot Line Adjustment*

A relocation of the lot lines of two (2) or more lots included in a plat that is filed of record, for the purpose of making necessary adjustments to building sites. Illustration example shown in Section 8.3.35 Building Line or Setback Line

8.3.195 *Lot Line, Front*

The property line along the frontage of a lot or as designated on the plat for corner lot. Illustration example shown in Section 8.3.35 Building Line or Setback Line.

8.3.196 *Lot Line, Rear*

Ordinarily that line of a lot that is opposite and furthest from the front lot line or as designated on the plat for corner lots. Illustration example shown in Section 8.3.35 Building Line or Setback Line.

8.3.197 *Lot Line, Side*

The property line along the side of a lot, extending from the front property line to the rear property line. Illustration example shown in Section 8.3.35 Building Line or Setback Line.

8.3.198 *Lot of Record*

A lot that is part of an approved plat which has been recorded in the office of the county register of deeds or in a deed recorded with the county clerk prior to the date of passage of the first Shenandoah subdivision ordinance or a tract specifically provided for in these Regulations.

8.3.199 *Lot, Substandard*

A lot that has less than the minimum area or minimum dimensions required in this Section or in the zoning district in which it is located.

..

8.3.200 *Lot Width*

The horizontal distance between the sidelines of a lot measured parallel to the front lot line at the minimum required front building setback line.

Illustration Example of Measuring Lot Width on Straight Lots

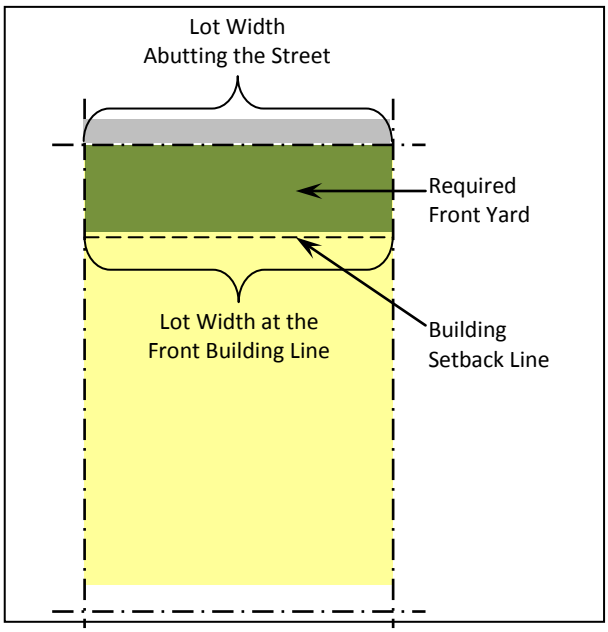
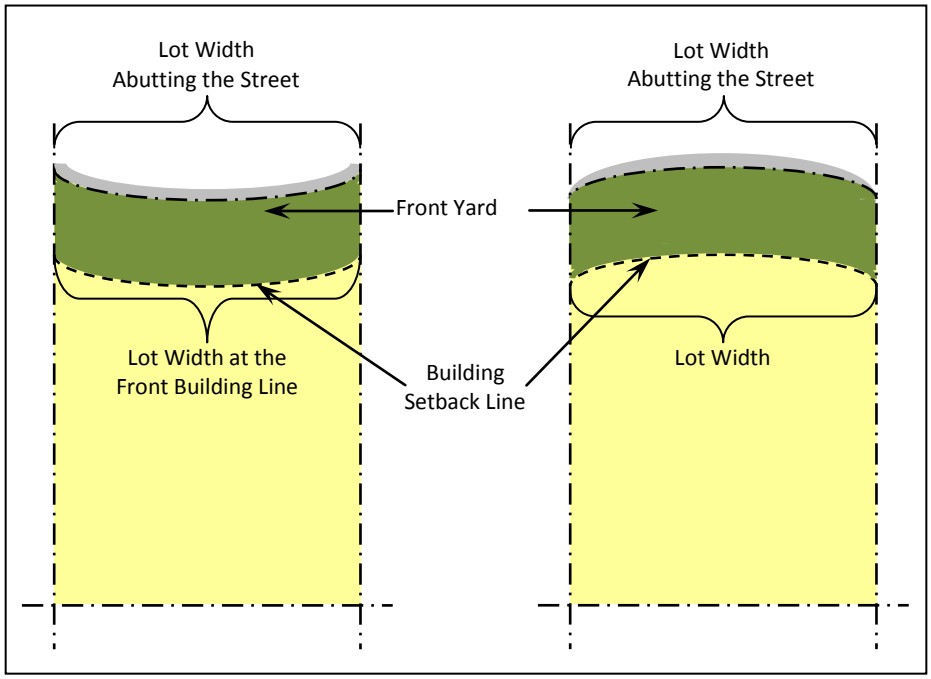


Illustration Example of Measuring Lot Width on Curved Lots



8.3.201 *Manufactured Home*

A Dwelling – Manufactured Home (HUD-Code). A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).A factory-built, single-family structure, which is manufactured offsite or constructed under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation and is constructed with a permanent chassis and displays a HUD sanctioned certification tag.

8.3.202 *Manufactured/Mobile Home Park*

A parcel of ground, not a part of a manufactured home subdivision, providing sites for the parking or location of one or more occupied manufactured homes, travel trailers, recreation vehicles and similar units. A parcel (or contiguous parcels) of land under single ownership which has been so designated and improved that it contains two (2) or more manufactured home sites available to the general public for the placement thereon of manufactured homes for occupancy regardless of whether or not a change is made for such accommodations.

8.3.203 *Manufactured/Mobile Home Subdivision*

A tract of land, laid out in accordance with this Subdivision Ordinance of the City of Shenandoah, intended for the specific purpose of providing individual lots for the placement of manufactured/mobile homes.

8.3.204 *Maximum*

For the purposes of these Regulations, “the maximum” is the amount that is required by these Regulations of a developer but a developer may choose to construct or provide less than the maximum unless otherwise specified.

8.3.205 *Median*

A strip of land that separates the opposing flows of traffic on a street, with level or depressed areas within it.

8.3.206 *Median, Flush*

A median which is level with the surface of the street and created by using header curbing, striping or other approved material.

8.3.207 *Median, Raised*

A median that is created by using standard curbing.

8.3.208 *Metes and Bounds*

A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker; the corner of intersection streets.

8.3.209 *Mezzanine*

Shall be defined as currently specified within Shenandoah's adopted building codes.

8.3.210 *Minor Plat*

See Plat, Minor

8.3.211 *Minimum*

For the purposes of these Regulations, "the minimum" is the amount that is required of a developer but a developer may choose to construct or provide additionally above the minimum required unless otherwise specified.

8.3.212 *Mixed Use*

A building developed for two or more uses where the uses are functionally integrated for the use of shared vehicular and pedestrian access and parking areas. The uses that are permitted within a mixed-use building are those permitted and regulated in the RC Retail Commercial District, or in the MIX Mixed Use Overlay District, including the use categories of retail, personal and business services, residential, amusement and recreation, institutional and governmental.

8.3.213 *Moblie Home*

A structure constructed before 1976 and regulated by the Texas Department of Housing and Community Affairs.

8.3.214 *Modification*

The making of a limited change, required either by ordinance or voluntary by the applicant, in a plat submission or set of subdivision improvement plans.

8.3.215 *Modular Home*

A factory-built home, other than a manufactured home, which meets all of the following requirements:

- Is not designed to be moved once so erected or installed;
- Is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing; or to the manufacturer's knowledge;
- Is assembled in sections on site; and
- Is not intended to be used other than on a site built permanent foundation.

8.3.216 *Motel and Motor Court*

A place offering sleeping accommodations for travelers and transients, for compensation, with at least 25 percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

8.3.217 *Municipal Attorney*

See City Attorney

8.3.218 *Municipal Utility District*

A political subdivision of the State of Texas authorized by the Texas Commission of Environmental Quality (TCEQ) to provide water, sewage, drainage and other services within the MUD boundaries

8.3.219 *Nonconformities/Noncompliance*

Lots, structures, uses of land and structures, and characteristics of uses, which are prohibited under the terms of the Zoning Ordinance but were lawful at the date of enactment of these Regulations.

8.3.220 *Non-conforming Lot*

A lot existing on the effective date of the ordinance from which this chapter is derived and is not created for the purpose of evading the restrictions of this chapter, and which does not meet the minimum area requirement of the district in which the lot is located.

8.3.221 *Non-conforming Structure*

A structure or building, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment of the ordinance from which this chapter is derived, but which, by reason of such adoption, revision or amendment, fails to conform to the new requirements of the zoning district in which such structure or building is located.

8.3.222 *Non-conforming Use*

A use of land that was lawfully in existence and/or occupied at the time the regulations prescribed in this chapter, or an amendment to this chapter, become effective, and which does not conform to the requirements of such regulations.

8.3.223 *Nursing Home*

An extended or intermediate care facility which is licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

8.3.224 *Occupancy*

Any utilization of real property.

8.3.225 *Official Submittal Date*

The date an applicant delivers the application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City with all required fees and documents as stated on the application form, as described by Section 24.0 Specific Application and Processing Requirements of this Subdivision Regulations and by Section 7.1 Universal Procedures of the Zoning Ordinance. The official submittal date is also subject to complete application provisions within this Section; (see the definition of Section 8.3.66 Complete Application as well as requirements within Section 24.1.2 Application Completeness and Expiration of the Subdivision Regulations.

8.3.226 *Off-Site*

Any real property not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

8.3.227 *Off-Site Improvements*

Any utility, paving, grading, drainage, structure, or modification of topography that is, or will be, located on property not within the boundary of the property to be developed.

8.3.228 *On-Site*

Any real property located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

8.3.229 *Open Space*

An area that is intended to provide light and air and is designed for either scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, desert areas, foothills, walkways, active and passive recreation areas, playgrounds, fountains, river banks,

swimming pools, wooded areas and water courses. Open space shall not include driveways, parking lots or other surfaces designed or intended for vehicular travel, or storage.

8.3.230 *Open Space, Common*

A parcel or parcels of land, or an area of water in combination with land, within a site designed and intended for the use and enjoyment of residents and owners belonging to an association as defined herein. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and owners belonging to an association. Also may be referred to as Common Area. Also, see the Zoning Ordinance link.

8.3.231 *Open Space, Private*

An area that is intended to provide light and air and is designed for either scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, desert areas, foothills, walkways, active and passive recreation areas, playgrounds, fountains, river banks, swimming pools, wooded areas and water courses. Open space shall not include driveways, parking lots or other surfaces designed or intended for vehicular travel, or storage.

8.3.232 *Open Space, Public*

The land dedicated to and accepted by the City of Shenandoah that is specifically designated as open area to remain undisturbed in its natural state.

8.3.233 *Open Space Ratio/Percentage*

The square foot amount of open space for each square foot of floor area within lot boundaries. This may be expressed as a percentage of open space within lot boundaries.

8.3.234 *Open Space, Usable*

An open area or recreational facility that is designed and intended to be used for outdoor, active or passive, recreation purposes. An area of usable open space has a slope that does not exceed ten percent (10%), and no dimension of less than ten feet (10'). An area of usable open space may also include landscaping elements (e.g., trees, ground cover), trails, recreational facilities, water features and decorative objects such as art or fountains.

8.3.235 *Ordinance*

Enactments of the legislative body of the municipal corporation that has the force of law, including any amendment or repeal of any ordinance.

8.3.236 *Outdoor Storage*

Articles or material stored outside the confines of the building in connection with the uses of a building or lots as permitted or allowed under the applicable zoning district.

8.3.237 *Owner*

The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site

8.3.238 *Parcel*

A contiguous tract of land owned by or a number of contiguous lots on a lot recorded as the property of the same person(s) or controlled by a single entity. For ease of indexing data, a segment of a

street, highway, railroad, right-of-way, pipeline, or other utility easement may be treated as though it were a parcel.

8.3.239 *Park and/or Playground*

A publicly or privately operated recreation facility, including any land area, which is designed to serve the recreation needs of Shenandoah citizens and visitors. Such park or playground may be private, used for the exclusive use of private residents or neighborhood groups and their guests and not for use by the public. Such park or playground may be public, used by the general public without membership or affiliation.

8.3.240 *Park Zone*

The residential areas surrounding a proposed or existing park or other recreational facility that can reasonably derive benefit from that park or other recreational facility pursuant to the Shenandoah Comprehensive Park and Open Space Plan. The City has divided its Corporate Limits into one (1) square mile park zones which shall be used for acquisition or development of parkland or other recreational facilities; where credit may be applied as part of an off-site dedication of parkland or other recreational facilities; or where bonus reductions for recreational improvements to parkland or other recreational facilities may be given. (Editor's note: This may need to be revised with the new plan and standards}

8.3.241 *Parking Area or Parking Lot*

As defined in the Zoning Ordinance. An area, not including a street or alley right-of-way, containing one or more parking spaces for motor vehicles, designed in accordance with the requirements of the City of Shenandoah Zoning Ordinance, and intended as an accommodation for patrons, customers, and employees, either with or without a charge for such accommodation.

8.3.242 *Parking Space*

A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

8.3.243 *Parking Space, Off-Street*

An area of not less than 162 square feet (measuring at least nine feet wide by 18 feet deep), which is not on a public street or alley, and is surfaced with an all-weather surface, meeting these Regulations. Such parking space shall be arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use, nor shall head-in parking adjacent to a public street be dependent upon such parking space for maneuvering space, except for single-family or duplex uses.

8.3.244 *Parkway*

That area of street right-of-way between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of the street paving.

8.3.245 *Patio Home (Zero Lot Line Residence)*

Dwelling, Zero Lot Line or Patio Home

8.3.246 *Pedestrian Way*

A specifically designated place, path, means, or way by which pedestrians shall be provided safe, adequate and usable circulation through the interior of a property or development and outside any portion of an access way.

8.3.247 *Permit*

The written governmental permission required for undertaking any land development activity issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such permission.

8.3.248 *Permit, Borrow or Waste*

As defined and governed in the Shenandoah Municipal Code.

8.3.249 *Permit, Clearing and Access*

As defined and governed in the Shenandoah Municipal Code.

8.3.250 *Permit, Final Grading*

As defined and governed in the Shenandoah Municipal Code.

8.3.251 *Permit, Prefinal Grading*

As defined and governed in the Shenandoah Municipal Code.

8.3.252 *Permit, Site Preparation*

Any permit or series of permits issued under the Shenandoah Municipal Code and/or these Regulations, that authorizes site preparatory activities other than construction or placement of a structure on the land under one or more site plans and that, upon approval, authorizes the property owner to apply for a construction permit.

8.3.253 *Performance Guarantee*

See Security

8.3.254 *Person*

A human being, his/her heirs, executors, administrators, or assigns and also includes a firm, partnership, corporation or other legal entity authorized by law, its or their successors or assigns, or the agent of any of the aforesaid.

8.3.255 *Petition for Relief from Dedication or Construction Requirement*

A request for relief from a requirement imposed under this Section to dedicate or construct a public improvement based on constitutional standards, and that is reviewed and decided under this Section.

8.3.256 *Place*

An open, unobstructed space, other than a street or alley, which is permanently reserved as the principal means of access to abutting property.

8.3.257 *Plan, Drainage Shed Control*

A conceptual plan for the development of storm water infrastructure as provided for in Section 22.11 Stormwater Management Requirements.

8.3.258 *Plan, Master Grading*

A conceptual plan that shows the proposed phased grading and its effect on adjacent properties.

8.3.259 *Plan, Temporary and Permanent Erosion Control*

A plan which shows erosion control measures proposed for the period before and after improvements are completed

8.3.260 *Planned Development District*

A form of development characterized by a unified site design that may include providing common open space, density averaging and mix of building types and land uses. A planned development district, referred to as a PDD, is a special zoning district that provides an alternate approach to land use controls and development regulations specified within an existing zoning district to produce unique, creative, progressive, or quality land developments using a master development plan.

8.3.261 *Planning and Zoning Commission*

The body appointed in accordance with state law that is authorized to make recommendations to Council as defined in these regulations (see Section 6.2 Planning and Zoning Commission of the Zoning Regulations. Also referred to as the "Commission."

8.3.262 *Planning Director*

See Community Development Director - Planning

8.3.263 *Plans, Subdivision Improvement*

The plans required by the City for the construction and installation of public improvements necessary to provide required services for proper development; including, but not limited to plans for grading, drainage facilities, water and sewer, open space, parks or other recreational space, streets and illumination of streets. See also Construction Plans.

8.3.264 *Plat*

A map, drawing or plan showing the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, commercial or industrial sites, easements, alleys and/or any other elements as required by this Section and which a subdivider shall submit for approval in accordance with this Section.

8.3.265 *Plat, Amending*

A plat with minor changes to a recorded subdivision as itemized and authorized in Section 21.7.4 Amending Plats.

8.3.266 *Plat, Development*

A plat required prior to development in accordance with Texas Local Government Code, Chapter 212.045 in lieu of other plats required by these Regulations in accordance with Section 21.5 Development Plats

8.3.267 *Plat, Final*

The plat of a subdivision for which platting is required which, when authorized, submitted and approved as regulated by these Regulations, specifically Section 21.4 Final Plat, will be recorded in the official public records. Such plat is a final plat submitted under state statute and is subject to the 30-day approval limitation. A combination plat comprised of the preliminary and final plats, as authorized and approved under these Regulations shall also constitute a final plat.

8.3.268 *Plat, Preliminary*

A plat that illustrates and thereby assures the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the applicable requirements of this Section and that is reviewed and decided prior to approval of a Final Plat. This type of plat is authorized under Section 21.3 Preliminary Plats of these Regulations.

8.3.269 *Plat, Minor*

A plat dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 21.6 Minor Plats of these Regulations. Such plat is considered the final plat submitted under state statute and is subject to the 30-day approval limitation.

8.3.270 *Plat, Recorded*

A plat that has received all approvals required by these Regulations and has been filed with the County Clerk of the County of Montgomery. Recording of a plat creates buildable lots with legal descriptions and dedicates rights-of-ways and easements to the use of the public.

8.3.271 *Plat, Vacated*

A subdivision that is vacated through the procedures described in these Regulations and is made legally void.

8.3.272 *Pond, Detention*

A manmade or natural reservoir, either public or private, designed to restrict the flow of storm water to a prescribed maximum rate through a controlled release by gravity, and to concurrently detain the excess waters that accumulate behind the control structure. Further defined within the City of Shenandoah Design Manual (SDM).

8.3.273 *Pond, Retention*

A manmade or natural reservoir, either public or private, designed to completely retain a specified amount of storm water runoff without gravity release. Further defined within the City of Shenandoah Design Manual (SDM).

8.3.274 *Pond, Amenitized Detention/Retention*

An area that is designed to capture, store and release storm water and that is designed as a site amenity by being aesthetically pleasing, by providing recreational or aesthetic value, and by being constructed to seem natural (i.e., without visible concrete). Such areas have a natural edge and are designed to resemble a naturally created lake or pond. Also, refer to the definition of Amenity above.

8.3.275 *Ponding, On-Site*

The process of containing surface water runoff within individual lots.

8.3.276 *Preliminary Plat*

See Plat, Preliminary

8.3.277 *Professional Engineer*

An engineer licensed and registered in the State of Texas.

8.3.278 *Professional Land Planner or Designer*

An individual with formal training in planning, architecture, landscape architecture and/or civil engineering and/or several years experience in land development, subdivision design and/or subdivision review.

8.3.279 *Project*

A land development project

8.3.280 *Property Line*

As defined in the Zoning Ordinance. The official boundary of a parcel, lot, or tract of land as designated by either a metes and bounds description or recorded subdivision plat filed in the records and maps of the county clerk.

8.3.281 *Property Owner*

The person(s) with legal title to the property, whether or not the person is in possession of the property.

8.3.282 *Property Owners' Association*

An incorporated organization operating under recorded land agreements which represents each homeowner or unit of ownership in a Planned Development District or other described land area and charges each lot and/or property owner for a proportionate share of the activities of the organization.

8.3.283 *Property, Personal*

Property owned by an individual or business not affixed to or associated with the land, such as trucks and other equipment.

8.3.284 *Property, Real*

Land, buildings and anything affixed to the land of a permanent immovable nature.

8.3.285 *Proportional Share*

The developer's portion of the costs of an exaction or public improvement as determined and in accordance with Texas Local Government Code 212.904 and considered to be the "roughly proportional share" of such exaction or public improvement that is created by a proposed development or subdivision.

8.3.286 *Public Improvement*

Any improvements consisting of drainage, water, sanitary sewer, paving, sidewalks, or other facilities for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

8.3.287 *Public Improvement District (PID)*

An assessment district set up under state law and the authority of the City to finance certain public improvements with assessments on property within the district, based on the benefit to the individual properties.

8.3.288 *Public Right-of-Way*

See Right-Of-Way, Public

8.3.289 *Public Use*

Any area, building or structure held, used, or controlled exclusively for public purposes by any department or branch of any government, without reference to the ownership of the building or structure.

8.3.290 *Public Use, Quasi*

Any use which is essentially public and not for profit which is under private ownership or control.

8.3.291 *Public Utility*

A closely regulated enterprise existing under the provisions of Chapter 402 of the Texas Local Government Code or of Title 32, Chapter 10 of the Texas Revised Civil Statutes, which provides to the public a utility service deemed necessary for the public health, safety, and general welfare. For purposes of this section, a municipality owning or operating a public utility system or an entity with a franchise with the municipality to provide a public utility system shall be considered a public utility.

Under certain rules and regulations, a business or service that is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, transportation or communications.

8.3.292 *Public Utility Facility*

The buildings, structures and facilities relating to the furnishing of public utility services to the public.

8.3.293 *Public Utility Service*

A service essential to the health, safety and general welfare of communications, and water; the collection and treatment of sewage and solid waste; the collection, storage or diversion of surface waters from land; and the provision of mass transportation.

8.3.294 *Public Way*

Any street, waterway, viaduct, sidewalk, bridge, waterfront, parkway, playground, square, park, aviation field, and other public ground and open space which the public has a right to use.

8.3.295 *Public Works Director*

The Engineer designated by the Director of Community Development as the Director of the Public Works, also referred to the Director of Community Development and Public Works, and in charge of engineering assistance, approval of construction drawings as to compliance with City Codes, inspection and acceptance of public improvements in the administration of these Regulations.

8.3.296 *Record drawings*

See As-Built/Record Drawings.

8.3.297 *Recording*

The act of processing a subdivision plat, which has been approved by the City as required by this Section, as an official record in the Deeds and Records Section of the Office of the County Clerk.

8.3.298 *Remainder Tract*

Land that is part of a larger parcel that is not subject to a subdivision plat affecting the parcel.

8.3.299 *Replat*

To resubdivide all or any part of a recorded subdivision, that is beyond the definition of an amending subdivision and which does not require the vacation of the entire preceding plat. See Section 21.7.2 Replats Without Vacation.

8.3.300 *Residential Cluster Development*

A development design technique or development form that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

A cluster development typically focuses dwelling units on the most buildable portion of the site and preserves natural drainage systems, vegetation, open space and other significant natural features that help control storm water runoff and soil erosion. Cluster developments also promote infrastructure cost savings by reducing the street length and amount of utilities needed to service a development. Cost savings continue to occur throughout the life of the development by the maintenance of fewer or shorter streets and utilities.

Illustration 8.3.299(A)
Example Comparing a Typical Residential Design

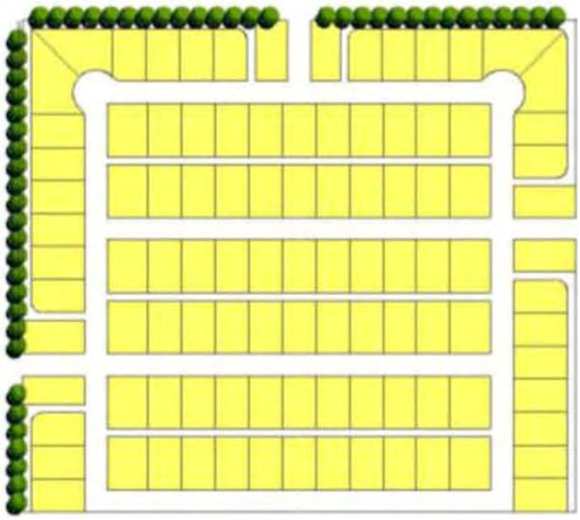


Illustration 8.3.299(B)
Example a Residential Cluster Development

8.3.301 *Residential Use*

The use of land by a dwelling unit or group of dwelling units.

8.3.302 *Responsible Official*

The City staff person who has been designated by the City Administrator to accept a type of development application for filing, to review and make recommendations concerning such applications, and where authorized, to initially decide such applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of this Section with respect to such development applications. Also includes any designee of the designated City staff person.

8.3.303 *Restrictive Covenant*

See Covenant, Restrictive.

8.3.304 *Resubdivision*

See Replat.

8.3.305 *Retirement Center*

A development that provides higher density apartment and/or condominium uses where the individual residential units and overall complex or project are designed to meet the special needs of ambulatory elderly persons and physically disabled persons who do not require convalescent or chronic care medical supervision.

A unit is occupied by the surviving members of a household, regardless of age, if the household head meeting the age requirement has died.

8.3.306 *Rezoning*

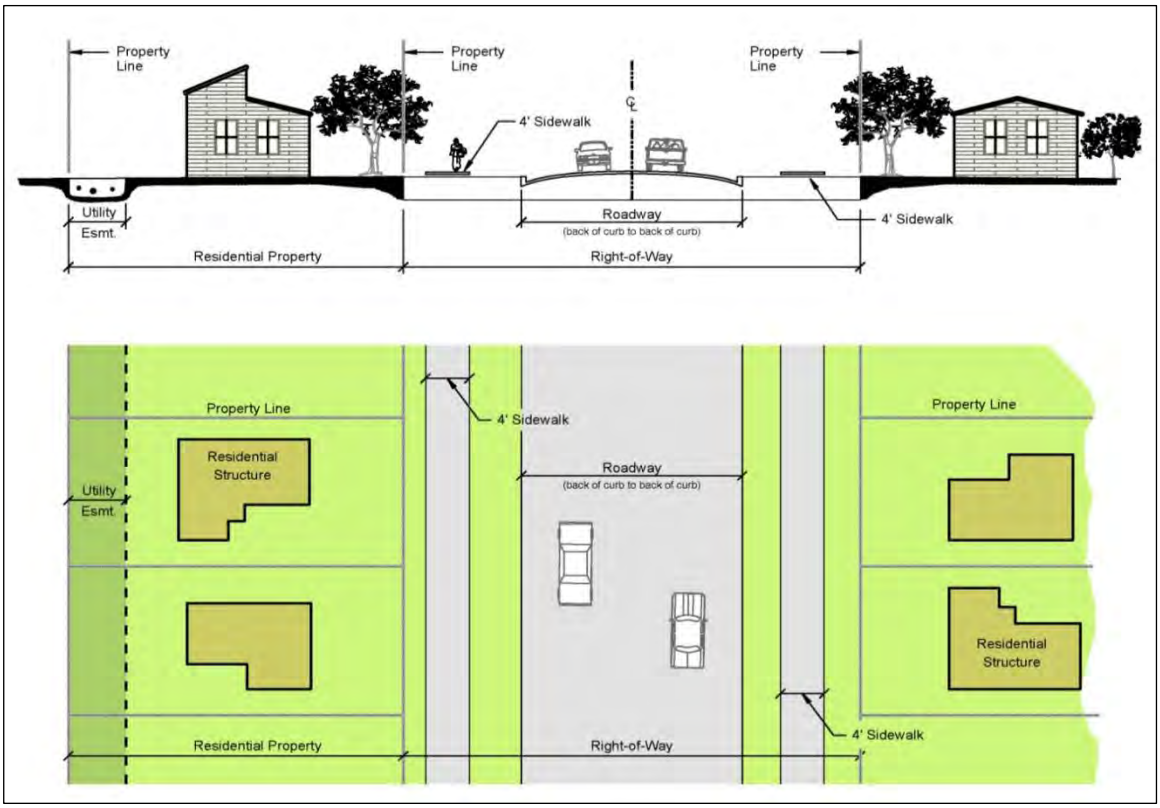
An amendment to or change in the zoning status of a lot, tract or parcel of land.

8.3.307 *Right-of-Way (ROW)*

A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, sidewalk, railroad, electric transmission line, oil or gas pipeline, water line, wastewater line, storm water line, other public utilities or facilities, or other similar use.

The usage of the term "right-of-way" for land-platting purposes shall mean that every right-of-way hereafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Illustration 8.3.306
Example of Right-of-Way



8.3.308 *Right-of-Way Line*

The lines that form the boundaries of a right-of-way.

8.3.309 *Right-Of-Way, Public*

A use of land dedicated by subdivision plat or metes and bounds to and for use by the public and which right-of-way is separate and distinct from the lots, parcel abutting it, and not included within the dimensions or areas of such lots or parcels.

8.3.310 *Roadway*

The improved or unimproved portion of a street intended for the accommodation of vehicular traffic. Illustrative example shown in the Right-of-Way definition.

8.3.311 *Roadway, Centerline*

See Centerline, Streets or Alleys

8.3.312 *Route, Accessible*

A continuous unobstructed path connecting all accessible elements and spaces of a building, facility or site:

8.3.313 *Screening*

A hedge, earth berm, wall or fence constructed in accordance with the requirements of the ordinance codified herein to provide a visual separator or physical barrier.

8.3.314 *Screening Wall*

A solid vertical barrier constructed of masonry materials that is intended to separate and limit visibility between that which is on either side of the barrier, for example adjacent land uses or particular site elements.

8.3.315 *Security*

A surety instrument or other financial mechanism to guarantee performance of an act or construction of required improvements in accordance with Section 21.8.4 Security for Completion of Improvements, and in an amount and form satisfactory to the Commission, the Council or the County Commissioner's Court as applicable.

8.3.316 *Setback Line*

See Building Line or Setback Line.

8.3.317 *Sewage*

See Wastewater

8.3.318 *Shenandoah Design Manual (SDM)*

The detailed specifications, procedures and standards approved administratively for regulating the design and construction of specified improvements. The SDM also includes checklists and application forms for approvals required by these Regulations. The Shenandoah Design Manual are incorporated by reference to this Section and are found in the office of the Director of Community Development or on the City of Shenandoah website

8.3.319 *Shenandoah Public Utilities (SPU)*

The Department authorized to manage and operate the water and wastewater system for the City of Shenandoah.

8.3.320 *Shopping Center*

A commercial development such as a strip center, mall, or multi-tenant retail building, in which two (2) or more separate retail businesses occupy a single or multiple structures which share on-site parking and common driveways.

8.3.321 *Sidewalk*

A paved surface area paralleling and usually separated from the street, used as a pedestrian way. Illustrative example shown Section 8.3.308 Right-of-Way. A hard surface area other than a roadway, used for the movement of pedestrians.

8.3.322 *Sight-Proof Screening*

Decorative fencing, evergreen vegetation or landscaped earth berms maintained for the purpose of concealing from view the property or structure behind such fence, evergreen vegetation, or berms. Also, see Section 12.0 Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)

8.3.323 *Sign, Advertising*

Any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone sign or other sign, device or structure of any character whatsoever, including statuary, placed for outdoor advertising purposes on the ground or on any tree, well, bush, rock, post, fence, building or structure. See Section 11.0 Existing Chapter 90, Sign Ordinance The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever. Neither directional, warning nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this definition.

8.3.324 *Site*

A tract of property that is the subject of a development application.

8.3.325 *Site Development Plan*

A plan showing location and size of water and sewer lines and storm sewers, paving, contours at two-foot intervals, building pad elevations, spot elevations at each lot corner for all lots in the subdivision, lot and street drainage arrows, street light locations, water and sewer service connections, top of curb elevations, lot dimensions, fire hydrants, man-hole locations, right-of-way widths and utility easements, and sidewalks. The final step of the development process within a zoning district, if required by the zoning or subdivision regulations.

8.3.326 *Site Plan*

A scaled plan that shows the exact size, shape, and dimensions of the property. The existing and proposed topographic characteristics of the site are shown at a contour interval in accordance with these Regulations. The location and dimensions of all existing and proposed buildings and structures, parking spaces and loading facilities, public and private easements, existing utilities, exterior lighting, trees and landscaping, parkland, open space, all ingress and egress driveways, and any drainage facilities are shown also to determine compliance with the plans and ordinances of the City of Shenandoah.

8.3.327 *Site Preparation Permit*

See Permit, Site Preparation

8.3.328 *Sketch Plan*

A sketch or informal plan prepared prior to the preparation of the preliminary plat describing the proposed design of the subdivision to be reviewed during the pre-application review process.

8.3.329 *Special Exception*

See Section 7.8 Special Exceptions

8.3.330 *Special Use Permit*

An approval for a specific use that has been determined to be more intense or to have a potentially greater impact than a use permitted-by-right within the same zoning district.

8.3.331 *Stormwater*

The surface drainage runoff or flow created from any form of precipitation accumulation including rain, snow, sleet and/or hail that exceeds the interception by vegetation and infiltration into the soil. The following definitions are applicable to the management of stormwater and apply to any stormwater requirement contained in these Regulations, in Section 22.11 Stormwater Management Requirements or in the SDM.

(a) *Applicant*

A person submitting a post-development stormwater management application and plan for approval.

(b) *Channel*

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

(c) *Drainage Design Manual (DDS)*

The detailed specifications, procedures and standards approved administratively for the purpose of regulating the design and construction of specified stormwater and drainage improvements. The Drainage Design Manual is incorporated by reference to this Section and is found in the office of the Subdivision Improvement Plan Engineer or on the City of Shenandoah website.

(d) *Flooding*

A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(e) *Floodplain Manager*

The Texas licensed professional engineer designated by the City Administrator as the Responsible Official and Initial Decision-Maker to administer and implement the provisions of City Codes and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

(f) *Inspection and Maintenance Agreement*

A written agreement providing for the long-term inspection and maintenance of storm water management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the Section to a site or other land involved in a land development project.

(g) *Non-point Source Pollution*

A form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Non-point source pollution is a by-product of land use practices such as agricultural, mining, construction, subsurface disposal and urban runoff sources.

(h) *Nonstructural Stormwater Management Practice or Nonstructural Practice*

Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

(i) *Post-development*

The time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

(j) *Pre-development*

The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

(k) *Redevelopment*

A land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements that do not materially increase or concentrate stormwater runoff, or cause additional non-point source pollution.

(l) *Runoff*

See Stormwater runoff below.

(m) *Site*

The parcel of land being developed, or the portion thereof on which the land development project is located.

(n) *Stormwater Administrator*

The person designated by the City Administrator to be the Responsible Official and initial decision maker for applications pertaining to drainage plans and other drainage decisions as may be required in the Shenandoah Municipal Code and Section 22.11 Stormwater Management Requirements Storm Water Management Requirements.

(o) *Stormwater Management*

The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, stream bank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

(p) *Stormwater Management Facility*

Any infrastructure that controls or conveys stormwater runoff.

(q) *Stormwater Management Measure*

Any stormwater management facility or nonstructural stormwater practice.

(r) *Stormwater Management Plan*

A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of these Regulations.

(s) *Stormwater Management System*

The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

(t) *Stormwater Runoff*

The flow of surface water resulting from precipitation.

(u) *Structural Stormwater Control*

A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

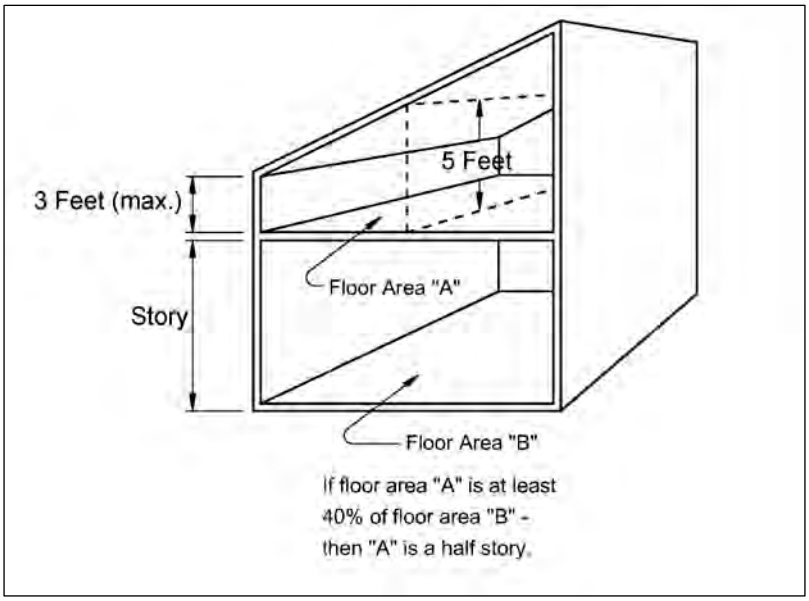
8.3.332 *Story*

The portion of a building between the surface of any floor at or above grade and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

8.3.333 *Story, Half*

A space under a sloping roof that has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space the possible floor area with headroom of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath. A half-story containing independent apartment or living quarters shall be counted as a full story.

Illustration 8.3.332
Example of Half Story



8.3.334 *Street*

A public or private thoroughfare or right-of-way that affords the principal means of access to the abutting property. The entire width between property lines when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic. This definition shall include public as well as private streets. An "Alley" is not considered a street, and is separately defined herein

(a) *Street, Arterial*

A street designed to accommodate cross-city traffic movement, distributing traffic to and from collector streets, as indicated by the Shenandoah Comprehensive Plan or any individual element thereof.

(1) Primary from Zoning

(2) Secondary for Zoning

(b) *Street, Boulevard*

A street, similar to an arterial and designed to accommodate cross city traffic movement, distributing traffic to and from collector streets, as indicated by the Shenandoah Comprehensive Plan or any individual element thereof. A boulevard, however, is designed with marginal access roads, medians, and parkways that are landscaped to provide a more aesthetic streetscape.

(c) *Street, Collector*

A street located within a neighborhood or other integrated use area which collects and distributes traffic from local streets and connects with arterial streets or community or neighborhood facilities, as indicated by the Shenandoah Comprehensive Plan, the adopted thoroughfare plan, or any individual element therefore.

(d) *Street, Freeway*

An access controlled, high speed street designed to accommodate cross country and/or limited cross city traffic movement, with grade separation at major intersections, as indicated by the Shenandoah Comprehensive Plan or any individual element thereof.

(e) *Street, Local*

A street that collects and distributes traffic between parcels of land and collector or arterial streets, with the principal purpose to provide access to abutting property.

(f) *Street, Major*

All freeways and primary and secondary arterial streets so designated on the transportation plan map of the city.

(g) *Street, Minor*

All collector streets, local streets and streets not otherwise designated a major street according to the transportation plan map.

(h) *Street, Primary Arterial*

A multi-lane arterial street designed primarily for traffic movement and secondarily for providing access to abutting properties and with a minimum number of at-grade intersections.

(i) *Street, Secondary Arterial*

A multi-lane facility for traffic movement and for giving access to abutting property that provides connections from local and collector streets to the primary arterials and freeways, and which provides movement of relatively large volumes of traffic for short distances within the community.

(j) *Street, Subcollector*

A street designed, generally, to accommodate traffic movement from local streets to higher classifications of streets as well as provide direct access to activity on abutting lots. Specifically, a subcollector is any street or portion thereof designed exclusively to provide direct access to property within non-residential zoning districts, any street or portion thereof providing the shortest direct route to a collector street for twenty-five (25) or more dwelling units, or any street segment extending without offset and connecting two or more collector streets.

8.3.335 *Street, Approved*

A street that has been approved in one of the following manners:

(a) *Dedication and acceptance*

A street that has been dedicated to and accepted by the city.

(b) *Previous dedication and acceptance involving the county*

A street that has been dedicated to and accepted by the county prior to annexation by the city.

(c) *Fifteen years of public access*

A street that has been open for public access for a period of at least fifteen (15) years.

(d) *Private Street*

As defined in the Subdivision Regulations.

(e) *Accepted for maintenance*

A street that has been accepted for maintenance by the city or county.

8.3.336 *Street Centerline*

See Centerline, Streets or Alleys

8.3.337 *Street, Collector*

As defined in the Subdivision Regulations.

8.3.338 *Street, Freeway*

As defined in the Subdivision Regulations.

8.3.339 *Street, Intersecting*

As defined in the Subdivision Regulations.

8.3.340 *Street, Local*

As defined in the Subdivision Regulations.

8.3.341 *Street, Major*

As defined in the Subdivision Regulations.

8.3.342 *Street, Minor*

As defined in the Subdivision Regulations.

8.3.343 *Street, Primary Arterial*

As defined in the Subdivision Regulations.

8.3.344 *Street, Private*

As defined in the Zoning Ordinance. A privately owned accessway within an approved planned development for which the private owners assume full responsibility for maintenance and control and which has not been dedicated to the use of the public.

8.3.345 *Street, Public*

As defined in the Zoning Ordinance. An accessway dedicated to the use of the public that has been accepted for maintenance and control by the city, county or state.

8.3.346 *Street/Right-of-Way Line*

A dividing line between a lot, tract or parcel of land and a contiguous street. See Illustration 8.3.308 Right-of-Way.

8.3.347 *Street, Secondary Arterial*

As defined in the Subdivision Regulations.

8.3.348 *Street, Stub*

A street that has been designed to allow for the future extension of the street through subsequent subdivisions.

8.3.349 *Street, Substandard*

An existing street that does not meet the current minimum street standards of the City.

8.3.350 *Street Width*

The shortest distance between the lines delineating the right-of-way of a street. See Illustration 8.3.308 Right-of-Way.

8.3.351 *Strip Zoning*

Designation of a ribbon pattern of zoning, generally commercial, which fronts one or both sides of a roadway in a narrow band.

8.3.352 *Structure*

Anything constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground. This includes but is not limited to advertising signs, billboards, antennae, wind generators, fence, poster panels and buildings, but excluding customary fences or boundary walls.

8.3.353 *Structural Alterations*

Any change in the supporting members of a structure, such as bearing walls, partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

8.3.354 *Subdivide*

When the owner of a tract of land within the limits or in the extraterritorial jurisdiction divides the tract into two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or the for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A division of a tract under this definition includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method.

(a) *Exclusion of Land Division into Parts Greater than Ten Acres*

This does not include a division of land into parts greater than ten acres, where each part has access and no public improvement is being dedicated.

(b) *Exclusion of Certain Tract Assembly*

This does include the assembly of two (2) or more tracts of land into one (1) tract or lot, unless specifically authorized or required by these Regulations.

(c) *Recorded Plat*

It also includes the following changes to a recorded plat, unless specifically authorized by these Regulations:

(1) A resubdivision of all or part of the subdivision;

(2) Any change of lot size or lot lines; or

(3) The relocation of any street.

8.3.355 *Subdivider*

Any person or any agent of the person, who either directly or indirectly, divides or proposes to divide land, so as to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider"' is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided. The term "developer" or "applicant" shall also mean subdivider.

8.3.356 *Subdivision*

Pertaining to land for which a plat has been recorded, subdivision means an area of subdivided lots; pertaining to the act of subdividing land, see the definition of Subdivide herein.

8.3.357 *Subdivision Agreement*

An agreement, other than a "Development Agreement" or a "Subdivision Participation Agreement," between the City and a property owner through which the City or property owner agrees to a schedule of improvements, a phasing of a project or any other agreement between the parties.

8.3.358 *Subdivision, Cluster*

A grouping of individual building lots or sites in close proximity, each of which or the majority of which has less land area than required for isolated individual lots, with the additional area in the

cluster subdivision being devoted to open space, recreation space, car spaces and access facilities in addition to required yards

8.3.359 *Subdivision Improvement Designs Standards*

See Shenandoah Design Manual, Shenandoah (SDM)

8.3.360 *Subdivision Improvements Plans*

See Plans, Subdivision Improvement

8.3.361 *Subdivision Participation Agreement*

An agreement between the City and a property owner through which the City or property owner agrees to pay a proportional percentage of a required public improvement or public amenity or for a portion of improvements in excess of those required under current ordinance.

8.3.362 *Submission*

The process by which a person desiring approval of a subdivision plat or subdivision improvement plans makes application to the City Administrator, Deputy Director - Planning or their designee, which application meets all of the submission requirements.

8.3.363 *Surveyor*

A registered professional land surveyor, as licensed by the State of Texas.

8.3.364 *TAC*

The acronym for the Texas Administrative Code.

8.3.365 *TCEQ*

The acronym for the Texas Commission on Environmental Quality.

8.3.366 *Temporary Building*

A structure that is transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

8.3.367 *Thoroughfare, Major*

See Street, Arterial

8.3.368 *Thoroughfare Plan*

The Thoroughfare Plan Element of the Comprehensive Plan and all other adopted thoroughfare plans of the City of Shenandoah.

8.3.369 *Townhouse*

See Dwelling, Town Home or Townhouse.

8.3.370 *Traffic, Average Daily (ADT)*

The average number of vehicles that pass a specified point during a twenty-four (24) hour period.

8.3.371 *Traffic Impact Analysis or Study (TIA)*

A report analyzing current and future traffic movements with and without a subdivision's impact and which includes an analysis of mitigation measures.

8.3.372 *Trailer, Hauling*

Any vehicle constructed that it is suitable for being attached to a motor vehicle and capable of being used for transporting livestock, goods, materials, or equipment, including boats.

8.3.373 *Trailer, Travel or Camping*

A portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, and not constituting the principal place of residence of the occupants.

8.3.374 *Travel Trailer Park*

Any lot of ground upon which two (2) or more dependent travel trailers or independent travel trailers, occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodations.

8.3.375 *Transition Zone*

A buffer between two (2) or more zoning districts or incompatible uses.

8.3.376 *Triplex*

See Dwelling, Three family (triplex).

8.3.377 *Trips*

The total number of vehicles, bicycles and pedestrians that pass a specified point during a specified time period.

8.3.378 *Trips, Average Daily*

The average number of trips that pass a specified point during a twenty-four (24) hour period.

8.3.379 *Trips, Peak Hour*

The total number of trips passing a specified point during the peak hour. The peak hour is the hour during the specified AM or PM period with the highest recorded traffic volumes on the impacted roadway network.

8.3.380 *TXDOT*

The acronym for the Texas Department of Transportation.

8.3.381 *Use*

The activity or function that actually takes place, or is intended to take place, on a lot.

8.3.382 *Utility*

A business that provides an essential commodity or service, such as electric, gas transmission, and local telephone, and that is generally under government regulations. A service provided to the public by either a private or a public agency.

8.3.383 *Utility Manager*

The Shenandoah Public Works Director or their designated representative that will furnish engineering assistance, approval of utility construction drawings, inspection and acceptance of water and wastewater improvements in the administration of this Subdivision Ordinance.

8.3.384 *Utility, Public*

See Public Utility

8.3.385 *Vacate/Vacation*

To make legally void.

8.3.386 *Variance*

For the purposes of this Subdivision Ordinance, a variance is a procedure defined under the replatting standards contained in Chapter 212 of the Texas Local Government Code, and herein after shall be termed a "replatting variance." See Section 7.7.2 Variances Defined.

8.3.387 *Vested Right*

A right of an applicant in accordance with Chapter 245 of the Texas Local Government Code, as amended, requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Subdivision Ordinance and/or of any subsequent amendments.

8.3.388 *Vested Rights Petition*

A request for relief from one or more standards of this Zoning Ordinance based on an assertion that the petitioner has acquired a vested right requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Zoning Ordinance. Such petition is regulated under Section 7.10 Vested Rights, Petition, and Review Procedure.

8.3.389 *Violation*

The failure of a development to fully comply with these Regulations.

8.3.390 *Waiver*

Authorization to deviate from or vary one or more standards applicable to a development application; such authorization is applied for, reviewed, and decided under Section 25.4 Petition for Waivers or Exceptions. Also, see Exception.

8.3.391 *Wastewater*

Water that has been used for domestic, commercial or industrial purposes and has acquired contaminants that must be removed by wastewater treatment processes prior to release in the environment or reuse as treated wastewater or effluent.

8.3.392 *Wastewater Disposal System, On-Site*

One or more systems of treatment devices and disposal facilities that are used only for disposal of wastewater produced on the site where the system is located.

8.3.393 *Wastewater Facilities*

The devices and systems that transport domestic wastewater from any property, treat the wastewater, or dispose of the treated wastewater in accordance with the minimum state standards.

8.3.394 *Wastewater Facility, On-Site*

An on-site sewage disposal system.

8.3.395 *Wastewater System, Public*

A facility owned and operated by a legal entity created under the State of Texas, with authority and responsibility to construct, operate and maintain a wastewater disposal system.

8.3.396 *Water Department*

City of Shenandoah Utilities Department

8.3.397 *Water, Drinking or Potable*

All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in preparation of foods or beverages, or for the cleaning of any utensil or article used in the course of preparation or consumption of food for human beings.

8.3.398 *Water System, Nonpublic*

Any water system supplying potable water that is not a public water system.

8.3.399 *Water System, Public*

A facility owned and operated by a legal entity created under the laws of the State of Texas, with authority and responsibility to construct, operate and maintain a potable water system. The system must provide piped water for human consumption and for all uses described under the definition for drinking water to the public. Such system must have a potential for at least fifteen (15) service connections or serve at least twenty-five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. Two (2) or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the potential service connections in the combined systems are fifteen (15) or greater of if the total number of individuals served by the combined systems total twenty-five (25) or more at least sixty (60) days out of the year.

8.3.400 *Water Storage*

Impounded surface water areas or surface tanks used for storage.

8.3.401 *Waiver of Rights*

Still being defined by attorney.

8.3.402 *Wetland*

Areas classified as jurisdictional wetland that would require appropriate permits from the Corps of Engineers for construction.

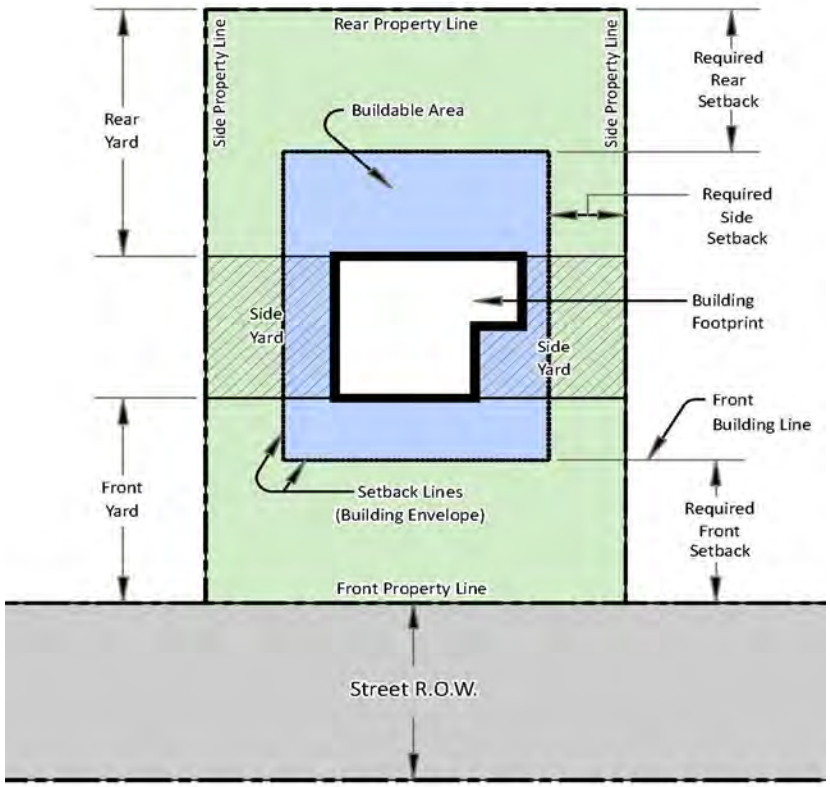
8.3.403 *Wind Energy Conversion Systems (WECS)*

Any device that converts wind energy to a form of usable energy.

8.3.404 *Yard*

An open space at grade between a building and the adjoining lot lines that are unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this chapter. The minimum horizontal distance between the lot line and the main building shall be used when measuring a yard for the purpose of determining the width of a side yard or the depth of the front or rear yard. Including Front, Rear, or side as defined in the Zoning Ordinance. That part of a lot at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward to the sky, except for permitted projections from the ground such as landscaping, fencing or walls.

Illustration 8.3.403
Example of Front, Side, and Rear Yards



8.3.405 *Yard, Front*

A yard extending across the front of a lot between the side lot lines, and is the minimum horizontal distance between the street/right-of-way or place line and the main building, or any projections thereof, other than the projections of uncovered steps, balconies or porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions. See Illustration 8.3.403.

8.3.406 *Yard, Rear*

An open area extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches.

On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard. See Illustration 8.3.403.

8.3.407 *Yard, Side*

A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and is the minimum distance between a side lot line and the side of the main building, or any projections thereof. See Illustration 8.3.403.

8.3.408 *Zero Lot Line*

See Dwelling, Zero Lot Line or Patio Home. A property line on which a structure is constructed upon, resulting in no yard on that side.

8.3.409 *Zoning Classification*

A section of the city delineated on the Zoning District Map in which requirements for the use of land, building and development standards are prescribed in the Zoning Ordinance text. Uses permitted and Special Use Permits are treated separately.

8.3.410 *Zoning District*

A section of the city designated in the Zoning Ordinance text and delineated on the Zoning District Map in which requirements for the use of land, building, and development standards are prescribed. Uses permitted and Special Use Permits are both included.

8.3.411 *Zoning District Map*

The official map, adopted as a part of the Zoning Ordinance, which graphically identifies the zoning district classification of all property within the corporate boundaries.

8.3.412 *Zoning Ordinance*

Chapter 102 of the Shenandoah Code of Ordinances. Definitions referred to in these Regulations are located in Section 8.0 Definitions.

Section 9.0 **Reserved**

Section 10.0 **Related Ordinances and Exhibits**

Section 11.0 **Existing Chapter 90, Sign Ordinance**

Section 12.0 **Existing Chapter 98, Vegetation (Landscaping and Tree Protection Ordinance)**

Section 13.0 **Existing Article III, Sections 18-121-18-214, Sexually Oriented Businesses**

Exhibit 10.5 Planned Development District (PDD1) – Vision Park Ordinance

Exhibit 10.6 Planned Development District (PDD2) – Grogan's Forest

Exhibit 10.7Article IV Planning and Zoning Commission

Section 14.0 **Reserved**

Section 15.0 **Reserved**

Section 16.0 **Reserved**

Section 17.0 **Reserved**

Section 18.0 **Reserved**

Section 19.0 **Reserved**

Section 20.0 **Reserved**

2011

Shenandoah, Texas
Chapter 94, Subdivision Regulations

CITY OF SHENANDOAH TEXAS

FREESE AND NICHOLS

April 13, 2011

Section 21.0 **Subdivision Regulations**

21.1 General Provisions

21.1.1 *Authority, Purpose and Applicability*

(a) *Regulations*

These Regulations shall be known as the City of Shenandoah Subdivision Ordinance and may be cited as such. Where reference is made to the Zoning Ordinance, to those sections, which shall apply as if they were fully set out in these regulations.

(b) *Authority*

The procedures of this Subdivision Ordinance are authorized under the authority of Texas Local Government Code, Chapter 212 (including Subchapter B) and the City's charter. The provisions of these Regulations expressly extend to all areas inside the City limits and throughout the City's extraterritorial jurisdiction.

(c) *Purpose*

(1) The provisions of this Section are intended to implement standards and requirements provided for herein, and shall be minimum requirements for the platting and developing of subdivisions within the City of Shenandoah and its extraterritorial jurisdiction, as authorized by State statute.

(2) The subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. Through the application of these regulations, the interests of public and private parties are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this Section further the possibility that land will be developed in accordance with existing physical, social, economic and environmental conditions.

(3) The provisions of this Section are intended to implement the following objectives:

a. Promote the development and the utilization of land in a manner that assures an attractive and high quality community environment in accordance with the Comprehensive Plan and the zoning regulations (where applicable) of the City of Shenandoah;

b. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;

c. Protect the public interest by adopting standards for the location, design, class and type of streets, walkways (sidewalks), trails, alleys, utilities and essential public services;

d. Assist orderly, efficient and coordinated development within the City's limits and its extraterritorial jurisdiction;

e. Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;

f. Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;

g. Provide for compatible relationships between land uses and buildings;

h. Provide for the circulation of traffic throughout the municipality;

i. Provide for pedestrian circulation that is appropriate for the various uses of land and buildings;

j. Prevent pollution of the air, streams, bodies of water, drainage ways or creeks and aquifers; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;

k. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;

l. Establish adequate and accurate records of land subdivision;

m. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;

n. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;

o. Ensure that each subdivision approved by the City is designed in such a way as to minimize storm water runoff from the site and to minimize flooding potential upstream, downstream and within from such subdivision.

(d) *Applicability*

(1) The provisions of this Section apply to any non-exempt (see Section 21.1.3 Exemptions) division of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the City and within its extraterritorial jurisdiction.

(2) No permit shall be issued for any building or structure on a property until a plat has been approved and filed for record with the following exceptions:

a. The property is exempt from having to plat under these Regulations under Section 21.1.3 Exemptions.

b. Permits for repair, expansion or remodeling of an existing structure or for site improvements (parking areas, driveways, etc.) which involve no increase larger than 50% in square footage or in value according to the last certified tax role; or

c. Demolition permits, or permits for removal of a structure from a parcel or tract.

d. A permit is not required for the improvements located in the extra-territorial jurisdiction.

(3) No owner or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any part of the parcel before a subdivision is duly recorded with the County Clerk as provided within this Section.

(4) The subdivision of any lot or any parcel of land by the use of metes and bounds description, contract of sale, or any other legal instrument, for the purpose of sale, transfer, lease or development is prohibited except as otherwise provided for in this Section

(e) *Subdivision Rules*

The provisions of this Section, the standards governing water and wastewater facilities applicable

to plats, and the technical standards contained in the City of Shenandoah Design Manual (SDM), as developed by the Director of Community Development or designee and adopted by resolution by the Council and as may be amended from time to time, constitute the subdivision rules of the City of Shenandoah, which apply to applications for plat approval inside City limits and within the City's extraterritorial jurisdiction. The SDM shall be maintained by and be available in the Community Development Department. Other ordinances of the City may also apply to land development and must be complied with.

21.1.2 *Types of Plats Required*

(a) *Plats*

A Final Plat or a Minor Plat shall be submitted and approved prior to any non-exempt land division.

(b) *Development Plats*

A Development Plat shall be approved prior to development of any tract or parcel for which no Final Plat is required prior to development of any lot in a subdivision for which dedication of any right-of-way for construction or maintenance of public improvements is required by this Subdivision Ordinance. A Development Plat shall be required prior to approval of a manufactured home rental community, or to proposed non-residential development within the City's extraterritorial jurisdiction. Refer to Section 21.5 Development Plats for Development Plat requirements.

(c) *Replats and Amending Plats*

A Replat in accordance with State Law and the provisions of Section 21.5 Development Plats shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property. In the case of revisions to non-single-family or duplex residential recorded plats or lots, a minor or amending plat may also be utilized if allowed by these Regulations. Single-family or duplex lots may utilize an amending plat if they meet the criteria including the creation of no additional lots.

21.1.3 *Exemptions*

(a) *Exemptions*

The following land divisions are exempt from the requirements of this Section that apply to plats, except when required to file a development plat in Section 21.5 Development Plats:

(1) The combining of two or more legally recorded lots into one parcel will not be required to be replatted into one lot provided all lots are permanently joined by a structure or improvements built over the property line(s) in accordance with the zoning ordinance;

(2) Provided, however, that on those parcels described in (1) above, no additional right-of-way or public right-of-way or public easements must be dedicated, or public utilities or roadways must be constructed.

(3) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended, provided however, that prior to construction of improvements, a plat these Regulations shall be completed and recorded;

(4) Use of existing cemeteries complying with all State and local laws and regulations;

(5) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a plat meeting these Regulations shall be completed and either recorded or security provided prior to recordation in accordance with these Regulations;

(6) A division of land for which a Development Plat exemption is claimed (refer to Section 21.5 Development Plats;

(7) Creation of a remainder tract in accordance with Section 21.2.6 Remainder Tracts, provided such remainder tract is suitable for development in the future and does not make any other tracts undevelopable under current City of Shenandoah ordinances, provided however, that prior to construction of improvements, a plat meeting these Regulations shall be completed and either recorded or security provided prior to recordation in accordance with these Regulations;

(8) Any development activity associated with a plat that conforms to the subdivision requirements set forth in these Regulations;

(9) Bona fide agricultural activities; and,

(10) Construction of agricultural accessory structures and related agricultural development activities.

21.1.4 *Time Frames for Decision on Plats and Land Studies*

(a) *Time Period for Action*

(1) All Final, Minor, Replat, Amending and Development Plat applications shall be acted upon within thirty (30) days from the date a submitted application is deemed complete as provided for in Section 24.1.2 Application Completeness and Expiration unless a written waiver is submitted in accordance with Subsection (b) below.

(2) Preliminary Plats, Land Studies, preliminary and final construction, engineering drawings, plans, and/or concept plans are not subject to the thirty (30) day approval limitation since they are preliminary and not suitable for recording, and will be approved, approved subject to conditions or denied within sixty (60) days from the date the application is deemed complete as provided for in Section 24.1.2 Application Completeness and Expiration. An applicant may request in writing an extension to the sixty (60) day approval period to allow additional time to comply with the requirements of this and all other ordinances.

(b) *Waiver of Right to 30-day Action*

(1) Responsible Official. The Community Development Director or designee shall be the Responsible Official and the initial decision-maker for a Waiver of Right to 30-Day Action or extension to the 60-day action requirement.

(2) Request

a. An applicant may request in writing a Waiver of Right to thirty (30) day Action in relation to the decision time for Final, Minor, and Amending Plats or Replats suitable for recording of thirty (30) days mandated by State law.

b. The waiver request shall contain a statement of the reasons for the waiver and the time for which a waiver is sought.

c. No waiver shall be granted for a period less than the Commission's next regularly scheduled meeting.

d. No such waiver is required for Preliminary Plats, Land Studies, construction or engineering drawings or plans, or concept plans since they are not suitable for recording and not covered by the thirty (30) day rule.

(3) Received

a. Waiver and extension requests must be received by the Community

Development Director or designee on or before the tenth (10th) calendar day prior to the Commission meeting or Council meeting at which action would have to be taken (based on the thirty (30) day requirement in State law) on the Plat application.

b. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the Plat application at such meeting as scheduled.

(4) Action

a. The Community Development Director or designee shall take action on the Waiver of Right to 30-day Action request within the thirty-day (30-day) period for acting on the Plat.

b. If the waiver is granted, action on the Plat application shall be waived for a certain period, consistent with the approved waiver.

(5) Appeal of Initial Decision

a. A decision by the Community Development Director or designee to deny a Waiver of Right to 30-day Action may be appealed to the Commission in accordance with Section 25.3 Vested Rights Petition of this Subdivision Ordinance.

(6) Requirements Maintained

a. The granting of a Waiver of Right to 30-day Action request shall not be deemed in any way a waiver to any requirement within this Subdivision Ordinance.

b. A waiver from requirements herein is a separate and distinct process.

(c) *Preliminary and Final Plat Application within the Extraterritorial Jurisdiction*

Where the land to be platted lies within the extraterritorial jurisdiction of the City in a County, whether or not the City has an interlocal agreement under Texas Local Government Code, Chapter 242, no Final Plat application shall be accepted as complete, unless the application also complies with Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards and it's requirements regarding the ETJ and the application is accompanied by verification that a copy of the Final Plat has been delivered to the applicable County in which the land subject to the application is located. If the City has not received a decision from the applicable county on matters pertaining to the Final Plat application which are to be determined by the applicable county, under any interlocal agreement or common City procedures, the application for Final Plat approval shall be accepted for filing by the City, but shall be denied, unless a Waiver of Right to 30-day Action is approved in accordance with subsection (b) above.

21.1.5 *Applications and Procedures*

(a) *Complete Application*

Where a conflict exists between the procedures listed in this section and any other section of the Subdivision Ordinance, the procedures of this section shall control.

(1) An application must be complete in order to be accepted for review by the City of Shenandoah. All applications shall be made on forms available from the City. To be complete, it must comply with all the procedures and requirements of this section and any other sections pertaining specifically to each application. Refer to Section 24.1 Application Processing of this Subdivision Ordinance and to the administrative submission requirements available in the Community Development Department for complete application procedures and requirements.

(2) Required documentation for the initial application to be considered complete for each review process is listed in (3) through (6) below.

(3) Preliminary Plat (See Section 21.3 Preliminary Plats for substantive requirements)

a. Application and related documents meeting the requirements in the final Plat submission check list.

b. Application Fee.

c. An electronic PDF copy of such plat shall also be submitted.

d. Field Notes as specified in the SDM.

e. Title Opinion or proof of ownership dated within 30 days of submission.

f. Preliminary Grading, Paving, and Stormwater Drainage and Public Construction Plans in accordance with submission requirements and checklist with all accompanying documentation must be submitted prior to or as part of the Preliminary Plat package.

g. Preliminary Drainage Plan with all accompanying fees and documentation.

h. Preliminary Utility Plans.

i. Tax certificates showing all taxes have been paid, in accordance with submission requirements.

(4) Final Plat (See Section 21.4 Final Plat for substantive requirements)

a. Application and related documents meeting the requirements in the Final Plat submission check list.

b. Application Fee.

c. An electronic copy of the Plat in AutoCAD format acceptable to the City tied to State Plane Coordinate System or City Monuments as required. An electronic PDF copy of such plat shall also be submitted.

d. Field Notes.

e. Title Opinion or proof of ownership dated within 30 days of submission. The title opinion or proof of ownership submitted with the preliminary plat may suffice if it was submitted within 60 days of the final plat submission.

f. Final Grading, Paving, and Stormwater Drainage and Public Construction Plans with all accompanying documentation must be submitted and approved prior to submission of the Final Plat.

g. Final Drainage Plans with all accompanying fees and documentation

h. Final Utility Plans.

(5) Minor Plat (See Section 21.6 Minor Plats for substantive requirements)

a. Application and related documents meeting the requirements in the Final Plat submission check list.

b. Application Fee.

c. An electronic copy of the Plat in AutoCAD format acceptable to the City tied to State Plane Coordinate System or City Monuments may be required. An electronic PDF copy of such plat shall also be submitted.

d. Paper copies of the plat in accordance with the submission requirements and

checklists.

e. Field Notes.

f. Title Opinion or proof of ownership dated within 30 days of submission.

g. Drainage Plans.

(6) Development Plat (See Section 21.5 Development Plats for substantive requirements)

21.1.6 *Stages of Plat Approval*

(a) *Plats. A Plat may be approved in three stages*

(1) Land Study (refer to Section 21.2 Land Studies); if required

(2) Preliminary Plat (refer to Section 21.3 Decision); and

(3) Final Plat (refer to Section 21.4 Final Plat).

(b) *Combined Applications*

An applicant may not submit applications for approval of Land Study and a Preliminary Plat, or a Preliminary Plat and a Final Plat simultaneously, except in accordance with these Regulations. Concurrent submission of a "Combination Plat" where both are submitted as one document may be authorized by the Community Development Director upon receipt of a written acceptance of responsibility for all additional costs, time delays and liability arising from such concurrent submissions from the applicant. Such acceptance shall be on a form provided by the Community Development Department. The combination plat must meet all requirements of a Final Plat prior to approval by the Council. Engineering and Construction Plans must also be submitted and approved in accordance with these Regulations.

(c) *Community Development Director, or designee*

The Community Development Director, or designee shall be the Responsible Official for a Plat, and the Staff shall be the initial reviewing body for a Plat application.

(1) The Community Development Director, and/or other City staff at the direction of the Community Development Director, or designee shall review all Plat applications for completeness (refer to Section 24.1.2 Application Completeness and Expiration) based on a checklist and the administrative submission requirements supplied by the Community Development Department.

(2) The staff shall review all Plat applications that are deemed complete for conformance with this Subdivision Ordinance and any other applicable City regulations.

21.2 Land Studies

21.2.1 *Purpose, Applicability, and Effect*

(a) *Purpose and Intent*

The purpose of a Land Study shall be to delineate the sequence and timing of development within a proposed subdivision, where the tract to be developed is part of a larger parcel of land owned or controlled by the applicant, in order to determine compliance with the City's Comprehensive Plan and the availability and capacity of public improvements needed for the subdivision and the larger parcel. The purpose of the Land Study shall also be:

(1) To elicit comment from the subdivider and the city technical staff regarding the proposed design of the land for the purpose of expediting subdivision application(s);

(2) To reduce subdivision design and development costs when a subdivider proposes to phase the development or to develop various land uses;

(3) To review and approve a general plan for the development of property including the layout of arterial streets, open areas, sites for public facilities, and utilities;

(4) To determine the availability of existing services to the area, including street improvements, drainage, sewerage, fire protection, schools, parks and other such facilities within one mile abutting the proposed study area.

(b) *Applicability*

(1) When required prior to submission of any subdivision application, the subdivider shall file an application for approval of a Land Study with the Community Development Director, or designee. A Land Study application shall include all contiguous holdings of the subdivider, including land in common ownership, which is proposed to be developed or subdivided within the meaning of this Section. For purposes of this section, a Land Study shall be required in all instances unless the Community Development Director or designee finds that:

a. An approved detailed site development plan or generalized site plan incorporating the proposed development area provides sufficient information for the purposes outlined and the preparation of a plat; or

b. A Preliminary Plat is submitted for the entire proposed development area, allowing review of the phasing for the whole property.

c. A finding made under this subsection shall be based on a determination by the Community Development Director, or designee that the alternate plan or plat satisfies the purpose and intent of a Land Study submittal, and that the alternate plan or plat fully contains the information required for filing of a Land Study application. Where changes are made to an approved detailed site development plan, generalized site plan or preliminary plat that is used as a basis for a finding made by the Community Development Director, or designee, the subdivider shall be required to submit a revised drawing of such approved plan or plat to the Community Development Director for proper recordkeeping. Failure to provide a revised drawing shall require that any subsequent subdivision application fully conform to the approved detailed site development plan, generalized site plan or preliminary plat on file.

d. A referral by the Community Development Director or Designee made to the Commission to determine the applicability of a Land Study submittal, or to appeal a negative finding pursuant to this subsection. The Commission shall review all reports and recommendations presented by the staff and shall make a recommendation to the Council who shall make a determination as needed on the applicability provisions, or the appeal as necessary. An action taken by the Council shall be binding on all parties.

(2) The Community Development Director, or designee may require a Land Study for any size development where parcels are sold off after the adoption date of these Regulations without a Development Plat being filed by separate owners. The Land Study will cover the entire original tract.

(3) A Land Study shall be required for any division of land where proposed development of the tract is to occur in phases and is not covered by a preliminary plat or other document listed in (1)b, c and d above. A Land Study may not be accepted for filing if the land subject to the Plat exceeds three hundred (300) acres for single-family residential developments, or one hundred (100) acres for other types of residential

developments. Non-residential and mixed-use developments shall not exceed four hundred (400) total acres. Phasing for the Land Study shall not exceed a time period of five (5) years plus (2) two year extensions. The applicant shall submit a schedule showing the proposed phasing of development that shall be approved along with the Land Study. If the land subject to the Land Study is part of a larger parcel, the remaining land shall be shown as a remainder tract, but shall not be included within the Land Study.

(4) A Land Study also shall be required/allowed for any size tract of land in a Planned Development (PD) zoning districts or as part of a Development Agreement. In either case, the applicable amount of land may exceed the size limitations set forth in Subsection c-3 above.

(c) *Effect*

(1) Approval of a Land Study authorizes the subdivider to submit a Preliminary Plat application for each phase of development shown on the Land Study, subject to the schedule of development approved for the land.

(2) Once a Land Study has been approved, all Plats approved thereafter for the same land shall be consistent with the Land Study for so long as the Land Study remains in effect. Minor variations between the Land Study and the subsequent Plat application(s) shall be permitted in accordance with Section 21.2.7 Revisions Following Approval of a Land Study. However, in no case shall minor variations be deemed to include any increase in the residential density, number of units, building coverage or square footage, and/or impervious cover of the proposed development.

21.2.2 *Application and Procedures*

(a) *Responsible Official*

The Community Development Director or designee shall be the Responsible Official for a Land Study.

(b) *Submittal*

All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form.

(c) *Prior Approved Applications*

An application for a Land Study shall not be approved unless all zoning amendments, including a request for a Zoning Change or a Comprehensive Plan, Thoroughfare Plan or other adopted Plan amendment, which are necessary to authorize the uses or layout proposed on the Land Study have been approved and remain in effect for the land included in the Land Study.

(d) *Accompanying Applications*

(1) An application for a Land Study may be accompanied by an application for rezoning approval, provided that the rezoning application shall be decided first. Such Study is not a Final Plat submitted under state statute and is not subject to the 30-day approval limitation.

(2) An application for a Land Study may be accompanied by an application for approval of a Preliminary Plat for the first phase of the project, provided that the application for Land Study shall be decided first. The applicant may request simultaneous review, and since both Plats are not Final Plats submitted under state statute they are not subject to the 30-day approval limitation. However, the applicant assumes all responsibility for any problems or issues created by simultaneous submission.

(e) *General Requirements*

The subdivider shall submit the Land Study application in a number and form that is in accordance with the application form, requirements and checklist as adopted by the City. The Land Study shall be accompanied by a processing fee established by the Council. The Land Study shall be prepared by an engineer at a scale of one-inch equals two hundred feet, except where the Community Development Director or their designee approves a modified scale, on one or more twenty-four inch by thirty-six inch sheets which provides all of the following information:

(1) General arrangement of existing and proposed land uses, including but not limited to park and school sites, other public facilities, open space areas, floodplains and drainage ways. The land uses regulated by zoning must comply with both the location and layout as prescribed by the official adopted zoning map and zoning ordinance of the City of Shenandoah, unless a rezoning is proposed as part of the combined application;

(2) The proposed density expressed in units per acre and population by land use. The proposed densities shown may not exceed those prescribed by the official adopted zoning map and zoning ordinance of the City of Shenandoah unless a rezoning is proposed as part of the combined application;

(3) Proposed phasing of platting;

(4) The proposed traffic circulation, layout, and width of all residential subcollector streets and arterial street classifications. The proposed street layout must comply with the adopted thoroughfare plan for the City of Shenandoah as to location and size of roadways, unless an amendment to such plans is proposed as part of the combined application;

(5) Traffic impact study to determine the need, if any, for additional traffic lanes (acceleration, deceleration, or turning), signalization and other street improvements. The traffic impact study shall be prepared in accordance with standards provided by the Traffic Engineer;

(6) Conceptual drainage plan indicating existing and proposed storm water sewer facilities. The drainage plans shall indicate the phasing plans and approximate location of temporary and permanent easements and right-of-ways that will be needed to accommodate the phasing plan and to carry the storm drainage to its ultimate destination;

(7) Layout and relationship of the proposed subdivision(s) to surrounding development, including the location, width, and names of all existing and platted streets, subdivisions, public ways, drainage channels, and other relevant features;

(8) Existing and/or proposed zoning of the property and adjoining land;

(9) Dimensions of the Land Study boundaries;

(10) Existing contours of the tract in intervals appropriate to the topography as determined by the Director of Community Development, or designee, in accordance with the SDM and based on National Geodetic Vertical Datum (year to be specified on Land Study);

(11) Existing water and sanitary sewer facilities.

21.2.3 *Decision*

(a) *Approval*

The Council, upon recommendation of the Commission, shall decide whether to approve, approve with conditions, or deny the Land Study application. The conditions may relate to, among other matters, compliance with the City's Comprehensive Plan, Zoning Ordinance and the

availability and capacity of public improvements. Upon approval, the Land Study shall be filed with and maintained by the City.

(b) *Land Study Submission*

Prior to the decision, the Commission and Council shall be provided with a full copy of the Land Study and all related documents that are needed to make a decision as to compliance with these Regulations.

(c) *Application Denial and Subsequent New or Revised Application*

Where the Council disapproves a Land Study application, the subdivider may submit a new or revised application for a Land Study in the manner and with the fees prescribed in these regulations.

21.2.4 *Criteria for Approval*

(a) *Factors*

The following criteria shall be used to determine whether an application for a Land Study shall be approved, approved with conditions, or denied:

(1) The Land Study is consistent with all zoning requirements for the property, and any approved Development Agreement;

(2) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities are adequate to serve each phase of the subdivision and generally meet the standards of this Subdivision Ordinance, the SDM and any other applicable standards or requirements of the City;

(3) The schedule of development is feasible and prudent, and assures that the proposed development will progress to completion within the schedule proposed; and

(4) The proposed Land Study conforms to the zoning on the property and is consistent with the approved Concept Plan and /or site plan, if any;

(5) The location, size and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the Plat;

(6) Where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City in a county with which the City may have an interlocal agreement under Texas Local Government Code, Chapter 242, the proposed Land Study meets any applicable County standards to be applied under the agreement or district rules or is also approved by the County.

(7) The Land Study is consistent with the adopted Comprehensive Plan, except where application of the Plan conflicts with state law.

(b) *Conditions*

In addition to any other conditions required to conform the Land Study to the standards of this Subdivision Ordinance, the Council, upon recommendation of the Commission, may condition approval on exclusion of land from the Land Study or adjustments in the proposed sequence or timing in the proposed phases of the development.

21.2.5 *Expiration and Extension*

(a) *Time of Expiration*

(1) Expiration of the Land Study shall be five (5) years plus two (2) year extensions from the date a complete application is officially approved, unless otherwise governed by the schedule of development approved by the Council.

(2) Expiration of a Preliminary Plat or Final Plat for any phase of the Land Study that has expired shall result in the expiration of the Land Study for all phases for which any type of Preliminary Plat has not been approved.

(b) *Extension*

The expiration date for any phase of the development may be extended by the Council under Section 24.5 Expiration, Extension, and Reinstatement. Extension of the expiration date for the phase extends the expiration date for the Land Study for a like period.

21.2.6 *Remainder Tracts*

(a) *Definition*

A remainder tract is that portion of a larger parcel that is not included within the boundaries of a Land Study or any type of Plat. Remainder tracts shall not be considered lots or tracts of the subdivision. Approval of a Plat shall not constitute approval of development on a remainder tract.

(b) *Information*

Information accompanying a Plat application for remainder tracts shall be deemed to be an aid to the Council and Commission in taking action on the Plat application and may be used to determine whether development of the land subject to the Plat will be adequately served by public facilities and services and is otherwise in compliance with this Subdivision Ordinance, taking into account the development of the property as a whole. Information concerning remainder tracts, including topography, drainage, and existing and planned public improvements, may be considered in formulating conditions to approve the Plat application. Based upon such information, the Council and/or Commission may require that additional or less land be included in the Plat in order to satisfy the standards applicable to the Plat application.

(c) *Approval*

Approval of such remainder tract is conditioned on such remainder tract being suitable for development in the future and not making any other tracts undevelopable under current City of Shenandoah ordinances.

21.2.7 *Revisions Following Approval of a Land Study*

(a) *Minor Changes*

The Community Development Director or designee may deem a revision minor and may authorize the amendment administratively. An amendment shall be considered minor if the Community Development Director or designee determines that it does not significantly alter the arrangement of land use, increase density, relocate major circulation elements, decrease open space areas, or alter the concept of the development.

(b) *Amendments*

(1) At any time after approval of a Land Study and before submission of a final plat for any portion of the area contained within the approved Land Study, the subdivider may request that an amendment be made in the approval or approval with conditions of the Land Study.

(2) An amendment not deemed minor by the Community Development Director, or designee shall be reviewed and either approved, approved subject to conditions, or disapproved by Council, upon recommendation of the Commission, following a staff recommendation, pursuant to the general procedures outlined in this section.

(3) The amendment to the Land Study shall be submitted with the approved application

form, required information and checklists, and fees. It shall be processed in the same time frame and manner as if it were a new Land Study application.

(4) If a request for amendment to an approved Land Study occurs after submission of a final plat, the subdivider shall be required to file a new Land Study application for the entire area contained within the formerly approved Land Study.

(5) The revised Land Study application shall be subject to the subdivision regulations in effect at the time of resubmission or in accordance with the vesting sections of these Regulations.

21.3 Preliminary Plats

21.3.1 *Purpose, Exceptions and Effect*

(a) *Purpose*

The purpose of a Preliminary Plat shall be to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable requirements of this Subdivision Ordinance. The City will not require significant changes in the final Construction Plans or Final Plat approval that contradict the preliminary Construction Plan or Preliminary Plat approval, except it reserves the right to address Life Safety or other significant issues that the design engineer should have addressed in the Preliminary Plat.

(b) *Exceptions*

(1) A Preliminary Plat is not required when a Minor Plat is allowed and submitted (Section 21.6 Minor Plats).

(2) A Final Plat in accordance with Section 21.4 Final Plat, along with final Construction Plans in accordance with Section 21.8 Construction Plans and Management, may be submitted in lieu of a Preliminary Plat. The applicant, however, assumes all liability for costs and time delays created by not submitting a Preliminary Plat.

(c) *Effect*

Approval of a Preliminary Plat shall authorize the subdivider to submit Construction Plans for approval by the Director of Community Development or designee under Section 21.8 Construction Plans and Management and, upon approval of such plans, to construct public improvements to serve the subdivision in accordance therewith. Approval of a Preliminary Plat also shall authorize the subdivider to seek approval of a Final Plat for the land subject to the Preliminary Plat.

21.3.2 *Application and Procedures*

(a) *Responsible Official and Initial Review*

The Community Development Director, or designee shall be the Responsible Official for a Preliminary Plat, and the Staff shall be the initial reviewing body for a Preliminary Plat application.

(b) *Pre-Application Conference*

Refer to Section 24.1.5 Pre-Application Conference and Vested Rights Waiver.

(c) *Application Contents*

All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form and the

administrative submission requirements available in the Community Development Department.

(d) *Preliminary Construction Plans*

Preliminary Construction Plans and preliminary engineering information meeting the submission requirements must also be submitted with the Preliminary Plat application.

(e) *Accompanying Applications*

An application for a Preliminary Plat may be accompanied by an application for rezoning approval, including a request for a Planned Development District, or a Land Study application. The rezoning application and Land Study application shall be decided first, or the Preliminary Plat shall be approved subject to their approvals. Such Plat is not a Final Plat submitted under state statute and is not subject to the thirty (30) day approval limitation but action in accordance with these Regulations will be taken on the Preliminary Plat within sixty (60) days.

(f) *Staff Review*

The staff shall review each Preliminary Plat application to be placed on the agenda of the forthcoming meeting of the Commission. The staff shall recommend either:

(1) Approval of the Preliminary Plat;

(2) Denial of the Preliminary Plat; or

(3) Approval of the Preliminary Plat with conditions.

(4) Approval of the Preliminary Plat with recommendations regarding any exceptions provided for in these Regulations.

(g) *Re-Submittal Following Staff Review*

(1) The applicant shall retain in his/her possession a copy of the original Preliminary Plat that was submitted for review by the staff.

(2) At least ten (10) days prior to the meeting of the Commission or Council during which the Preliminary Plat is scheduled for action, the applicant shall provide to the Community Development Director or designee a copy meeting submission requirements of the Preliminary Plat. The Community Development Director or designee shall then review the Preliminary Plat for compliance with staff recommendations.

(h) *Staff Review Timing*

A Preliminary Plat must be submitted, deemed complete, and reviewed by staff before it may be placed on the Commission agenda for a recommendation to the Council for approval, approval subject to conditions or denial. Such Preliminary Plat and related preliminary engineering and construction plans is not a Plat submittal under state statute suitable for recording and is not subject to the 30 day approval limitation.

21.3.3 *Decision*

(a) *Review and Determination*

The Commission shall review all Preliminary Plat applications, findings of the staff, findings of the Community Development Director, or designee regarding compliance with staff recommendations, and any other information available. From all such information, the Commission shall make a recommendation to the Council whether the Preliminary Plat as shown on the application meets the standards of this Subdivision Ordinance.

(b) *Approval or Denial*

The Council, upon recommendation of the Commission, shall decide whether to approve,

approve with conditions, or deny the Preliminary Plat application within sixty (60) days from determination that the application is complete in accordance with Section 24.1.2 Application Completeness and Expiration. The action of the Commission shall be entered in the minutes of the Commission and the applicant shall be notified of the results.

(1) All changes or conditions required by the Council as part of the Preliminary Plat approval shall be made a part of the record and any Final Plat or final Construction Plans shall meet those required changes or conditions.

(2) The Council may at the time a Preliminary Plat is approved subject to conditions, require a revised Preliminary Plat to be resubmitted, with no additional fees, that meets the requirements and conditions of their approval. Such revised Plat is to be submitted ten (10) days prior to the next available Commission meeting and reviewed and by the Commission, making sure all conditions of approval have been met. The Council, upon recommendation of the Commission shall take action upon the revised Preliminary Plat.

(3) Following denial of a Preliminary Plat application, the applicant may resubmit a revised Preliminary Plat application, together with any revised Preliminary Construction Plans, for approval by the Council, upon recommendation of the Commission, provided that the revised application is approved prior to the original expiration date of any approved Land Study for the same land and provided that reapplication fees are paid in accordance with the adopted fee schedule.

21.3.4 *Criteria for Approval*

(a) *The following criteria shall be used to determine whether the application for a Preliminary Plat shall be approved, approved with conditions, or denied*

(1) The Preliminary Plat is consistent with any zoning requirements for the property, and any approved Development Agreement if applicable, or is approved subject to any proposed zoning submitted concurrently;

(2) The Preliminary Plat conforms to the general layout of the approved Land Study (with minor variations as described in Section 21.2 Types of Plats Required, including any phasing plan approved therein;

(3) The proposed provision and configuration of roads, water, wastewater, drainage and park and open space and other facilities conform to the City's adopted master plans for those facilities, including without limitation water facilities, wastewater facilities, transportation, drainage, and any other municipal plans;

(4) The proposed provision and configuration of roads, water, wastewater, drainage, park facilities, easements, and rights-of-way are adequate to serve the subdivision and meet applicable standards of this Section;

(5) The Preliminary Plat meets any applicable County standards in accordance with Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards , when the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County;

(6) The Preliminary Plat has been duly reviewed by applicable City staff, including the Community Development Director, or designee and Director of Community Development;

(7) The Preliminary Plat conforms to the design requirements and construction standards as set forth in the City of Shenandoah Design Manual (SDM); and

(8) The Preliminary Plat is consistent with the adopted Comprehensive Plan, except where application of the Plan conflicts with State law (e.g., land use).

(9) The Preliminary Plat is consistent with the Parks and Open Space Plan and the proposed provision of parks and open space and/or fees in 1ieu of dedication is in conformance to this and all other ordinances.

(10) The Preliminary Plat complies with any exceptions approved by the Commission or any exceptions approved by the Council involving creating a future expenditure of money by the City.

21.3.5 *Effect of Approval of a Preliminary Plat*

(a) *Right to Proceed*

The approval of a Preliminary Plat application shall allow the applicant to proceed with the development and platting process by submitting Construction Plans and a Final Plat. The City will not require significant changes in the final Construction Plans or Final Plat approval that contradict the Preliminary Construction Plan or Preliminary Plat approval, except it reserves the right to address Life Safety or other significant issues that the City, the design engineer or other consultants working on behalf of the developer should have addressed in the Preliminary Plat.

(b) *Installation of Subdivision Improvements*

(1) Approval of the Preliminary Plat by the Council, upon recommendation of the Commission, shall be deemed an approval of the layout illustrated on the Preliminary Plat as a guide to the installation of streets, water, wastewater, parks, open space, drainage infrastructure and other improvements that are planned or required within the proposed subdivision.

(2) Approval of the Preliminary Plat shall not constitute approval of the proposed subdivision, nor shall approval of the Preliminary Plat be construed to mean acceptance by the public of the dedication of any roads, utilities, parks, open space, drainage ways, or other such land and improvements.

(3) Construction of all subdivision improvements shall be based upon approved Construction Plans, and shall occur either:

a. Prior to Final Plat approval and recordation but after the Preliminary Plat and all Construction Plans for public improvements have been approved, or

b. Following Final Plat and Construction Plan approval but prior to recordation, filing of security or issuance of building permits; or

c. Following Final Plat approval and recordation and the release of building permits upon completion and acceptance of all public improvements or upon submittal of security in lieu of completing construction, in accordance with Section 21.8 Construction Plans of these Regulations.

21.3.6 *Expiration and Extension*

The approval of a Preliminary Plat application shall remain in effect for a period of two (2) years from the date of approval by the Council, during which period the applicant shall submit and receive approval for Construction Plans and a Final Plat for the land subject to the Preliminary Plat. If Construction Plans and a Final Plat application have not been approved within the two (2)-year period, the Preliminary Plat application, unless extended in accordance with Section 24.5 Expiration, Extension, and Reinstatement, shall expire and the Preliminary Plat shall be null and void.

21.3.7 *Revisions Following Approval of Preliminary Plat*

(a) *Submission Allowed*

Following the approval of a Preliminary Plat application, the applicant may resubmit a revised

Preliminary Plat, together with any revised Preliminary Construction Plans along with a resubmission fee in accordance with the adopted fee schedule.

(b) *Minor Changes*

Minor changes in the design of the subdivision subject to a Preliminary Plat may be incorporated in an application for approval of a Final Plat without the necessity for submittal of a new application for approval of a Preliminary Plat. Minor changes may include minor adjustments in street or alley alignments, lengths, and paving details, addition or modification of utility easements, adjustment of lot lines and similar minor changes that do not result in the creation of additional lots, provided that such changes are consistent with any approved prior applications.

(c) *Amendments*

All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat before approval of a Final Plat. Approval of major revisions to an approved Preliminary Plat shall occur prior to the date any approved Land Study would have expired for the same land.

(d) *Determination*

The Community Development Director or designee shall make a determination of whether changes are deemed to be minor or shall require new submittal of a Preliminary Plat.

21.4 Final Plat

21.4.1 *Purpose, Applicability, Exceptions and Effect*

(a) *Purpose*

(1) The purpose of a Final Plat is to assure that the subdivision of the land subject to the Plat is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the Plat to be recorded, to assure that the subdivision meets all other standards of this Subdivision Ordinance and to enable initiation of site preparation activities for any lot or tract subject to the Final Plat.

(2) The City will not require significant changes in the final Construction Plans or Final Plat approval that contradict the preliminary Construction Plan or Preliminary Plat approval, except it reserves the right to address Life Safety or other significant issues that the design engineer should have addressed in the Preliminary Plat.

(b) *Applicability*

(1) Construction of public improvements may occur prior to Final Plat approval if requirements in Section 21.8 Construction Plans and Management are met.

(2) Prior to submission of the Final Plat application for approval, the final Construction Plans, including water, wastewater, other utility and storm drainage plans must be submitted to the Director of Community Development's office.

(3) In order to construct public improvements prior to approval of the Final Plat, such plans must be reviewed and approved by the Director of Community Development, or their designee.

(4) The Director of Community Development, or designee may recommend that a Final Plat

be approved subject to corrections being made to the final Construction Plans.

(c) *Effect*

(1) Approval of a Final Plat shall authorize the subdivider to install any improvements in public rights-of-way with approved Construction Plans and to seek approval of site preparation, building and other permits for any lot in the subdivision.

(2) Approval also authorizes the recordation of the Final Plat; however, recordation shall occur only upon completion and acceptance of all public improvements or the posting of security as required in Section 21.8.4 Security for Completion of Improvements.

21.4.2 *Application and Procedures*

(a) *Responsible Official*

The Community Development Director, or designee shall be the Responsible Official for a Final Plat, and the City Staff shall be the initial reviewing body for a Final Plat application.

(b) *Pre-Application Conference*

Refer to Section 24.1.5 Pre-Application Conference and Vested Rights Waiver.

(c) *Prior Approved Preliminary Plat*

The Final Plat and all accompanying data shall conform to the Preliminary Plat as approved by the Council, incorporating all approved exceptions and conditions. The Final Plat shall be prepared by a Registered Professional Land Surveyor.

(d) *Proof of Ownership*

(1) The applicant shall furnish with the application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Plat, including lien holders. The proof of ownership or title commitment submitted as part of the Preliminary Plat approval may be utilized if submitted less than sixty (60) day prior to the Final Plat submission.

(2) The Final Plat shall be signed (on the face of the Plat in plain view) by each owner, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Plat. Such consent shall be subject to review and approval by the City Attorney.

(e) *Application Contents*

All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form and the administrative submission requirements available in the Community Development Department.

(f) *Staff Review*

(1) The Staff shall review each Final Plat application to be placed on the agenda of the forthcoming meeting of the Commission. The Development Review Committee shall recommend either:

a. Approval of the Final Plat;

b. Denial of the Final Plat; or

c. Approval of the Final Plat with conditions.

(2) In case of a recommendation of approval, the Staff must make only a finding that the

Final Plat meets all standards set forth in this Subdivision Ordinance, although the Staff may make such additional findings, as it deems appropriate. In case of a recommendation for denial or approval with conditions, the Staff shall make specific findings of the reasons for denial or the imposition of conditions and shall cite the standards in this Subdivision Ordinance that would be violated if the Final Plat were approved unconditionally.

(g) *Re-Submittal Following Staff Review*

(1) The applicant shall retain in his/her possession the original Final Plat that was submitted for review by the Staff.

(2) The applicant shall provide to the Community Development Director, or designee a copy meeting submission requirements of the Final Plat, with revisions made based on Staff comments and recommendations at least ten (10) days prior to the meeting of the Commission during which the Final Plat is scheduled for review.

a. The Community Development Director or designee shall then review the Final Plat for compliance with Staff recommendations.

(h) *Staff Review Timing*

If a Final Plat is submitted but is not reviewed by Staff because it must be placed on the Commission agenda due to the State law mandated 30-day time frame for action on Plats and no Waiver was submitted by the applicant, the Final Plat shall be subject to denial by the Commission.

21.4.3 *Decision*

(a) *Review and Determination*

(1) The Commission shall review all Final Plat applications, findings of the Staff, findings of the Community Development Director, or designee regarding compliance with Staff recommendations, and any other information available.

(2) From all such information, the Commission shall determine and make a recommendation to the Council whether the Final Plat as shown on the application meets the standards of this Subdivision Ordinance.

(b) *Approval or Denial*

(1) The Council, upon recommendation of the Commission, shall decide whether to approve, approve with conditions, or deny the Final Plat application within thirty (30) days from determination that the application is complete in accordance with Section 24.1.2 Application Completeness and Expiration, unless a waiver is filed in accordance with these Regulations. The action of the Commission shall be entered in the minutes of the Commission and the applicant shall be notified of the results.

(2) Upon approval of the Final Plat, the applicant shall correct and submit Final Plat copies to the Community Development Director, or designee so that required signatures can be obtained and recording completed.

(3) If any conditions are attached to the Commission's approval, the Final Plat copies shall be so corrected prior to signature by any City official.

(4) The reasons for any action taken by the Commission, whether a Final Plat is approved, denied, or approved with conditions, shall be entered in the minutes of the Commission.

(c) *Resubmission Following Denial*

Following denial of a Final Plat application, the applicant may resubmit a revised Final Plat

application, together with any revised Final Construction Plans, for approval by the Council, upon recommendation of the Commission, provided that the revised application is approved prior to the original expiration date of any approved Land Study or Preliminary Plat for the same land and provided that reapplication fees are paid in accordance with the adopted fee schedule.

21.4.4 *Criteria for Approval*

(a) *The following criteria shall be used to determine whether the application for a Final Plat shall be approved, approved with conditions or denied:*

(1) The final Construction Plans have been submitted, reviewed and approved or approved with conditions by the Director of Community Development or designee. The Final Plat approval shall note:

a. Construction Plans are complete and approved by staff.

b. Construction Plans are complete and approved by staff subject to revisions.

c. Construction Plans are still being reviewed by staff and revised by the subdivider and the Commission delegates to the Director of Community Development, or designee the authority to determine compliance of the Construction Plan's with this and all other City ordinances and the Director of Community Development, or designee's approval of the Construction Plans prior to filing of the Final Plat or issuance of building permits. Questions of interpretation of the ordinance or resolution of significant engineering issues shall be decided and included in the Commission's conditions.

(2) Prior Approved Preliminary Plat:

a. The Final Plat conforms to the approved Preliminary Plat except for minor changes authorized under Section 21.3 Preliminary Plats or Section 21.4 Final Plat of these Regulations and that may be approved without the necessity of revising Preliminary the approved Preliminary Plat;

b. All conditions imposed at the time of approval of the Preliminary Plat, have been satisfied;

c. Where public improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the Director of Community Development, or designee.

d. Where the Director of Community Development, or designee has authorized public improvements to be deferred, the Security in accordance with Section 21.8.4 Security for Completion of Improvements shall be submitted to and accepted by the City prior to recordation of the Final Plat or issuance of foundation or building permits.

e. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Section and all other applicable City ordinances;

f. The Final Plat, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County, meets the requirements in Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards and any applicable County standards to be applied under any interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242 and is approved by the County.

g. The Plat conforms to design requirements and construction standards as set forth in the City of Shenandoah Design Manual (SDM) and,

h. The Plat conforms to the subdivision application checklist and has been determined to be a complete application.

(3) No Prior Approved Preliminary Plat:

a. The Final Plat conforms to all criteria for approval of a Preliminary Plat;

b. The Construction Plans conform to the requirements of this and all other ordinances;

c. The Security for installation of public improvements have been prepared and executed by the property owner in conformity with Section 21.8.4 Security for Completion of Improvements Security shall be submitted to and accepted by the City prior to issuance of foundation or building permits;

d. The final layout of the subdivision or developments meets all standards for adequacy of public facilities contained in Section 2 of this Subdivision Ordinance;

e. The Final Plat, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County, meets the requirements in Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards and any applicable County standards to be applied under any interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242 and is approved by the County.

f. The Final Plat conforms to the application checklist.

21.4.5 *Applicant Initiated Revisions to Final Plat*

(a) *Following Approval or Conditional Approval*

An applicant may apply for modification of an approved or conditionally approved Final Plat to reflect changes listed below, provided that the approved Final Plat has not been recorded and that approval of the modified Final Plat occurs prior to expiration of approval of the initial Final Plat application. If the approved Final Plat has been recorded, revisions may only be approved under Section 21.7, Revisions to Recorded Plats (Replatting), of these Regulations.

(1) Minor changes arising from the installation of public improvements after plat approval including easement additions and adjustments may be approved by the Director of Community Development, or designee.

(2) Minor changes including street name and addressing changes, dimension changes that do not substantially affect the street or lot layout or other similar minor changes and meet the requirements of these Regulations may be approved by the City Administrator, or designee.

(3) Major revisions on Final Plats prior to recordation including those that substantially affect the street or lot layout shall be resubmitted as an amended Final Plat and will require re-approval by the Commission within the time frames prescribed by this Section.

(4) If the approved Final Plat has been recorded, revisions may only be approved under Section 21.7, Revisions to Recorded Plats (Replatting) or Amending Plats, of these Regulations.

(b) *After Denial*

Following denial of a Final Plat or Amending Plat application, the applicant may submit a revised Final Plat or Amending Plat application, together with any revised Construction Plans with a resubmission fee in accordance with the adopted fee schedule, for consideration and approval by

the Council, upon recommendation of the Commission, provided that the revised application is approved prior to the original expiration date of any approved Preliminary Plat for the same land.

21.4.6 *Expiration and Extension*

(a) *Effective Duration of Approved Final Plats*

(1) The approval of a Final Plat shall remain in effect for a period of two (2) years from the date of approval by the Council, during which period the applicant shall submit any required revisions for approval and record the Plat.

(2) If the Final Plat has not been recorded within the two-year (2-year) period, the Final Plat approval, unless extended in accordance with Section 24.5 Expiration, Extension, and Reinstatement, shall expire and the applicable Plat shall be deemed null and void.

21.4.7 *Plat Recordation*

(a) *Procedure*

(1) Signatures. After approval of the Final Plat, the Community Development Director, or designee shall procure the signature of the Mayor and the Chairperson of the Commission on the Plat, as well as the signature of the City Secretary who shall attest to the signature of the Mayor.

(2) Recording Upon Performance. The Community Development Director or designee shall cause the Final Plat to be recorded with the appropriate County Clerk upon the subdivider's or developer's performance of one of the following:

a. Completion of the construction of required improvements prior to recordation; or

b. Where the City Administrator or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued in accordance with Section 21.8 Construction Plans and Management. Provided that Security for the remaining public improvements in accordance with Section 21.8.4 Security for Completion of Improvements shall be submitted to and accepted by the City.

c. Regardless of which option, (1) or (2) above, is chosen, Construction Plans must be approved or conditionally approved in accordance with this Section and Section 21.8.1 Construction Plans prior to approval of the Final Plat and approved prior to Plat recordation.

(b) *Timing of Recordation*

The final signed copies of the Plats for recordation will be recorded within ten (10) days of the date that staff:

(1) Received the final, approved, corrected recordation plat; and

(2) Received all fees, certificates and required documents for recording; and

(3) Determines that all other recording requirements have been met.

(4) Provided that the plat may be held for recordation until a date agreed upon with the subdivider if the final signed copies of the Plats for recordation meeting the requirements of these Regulations have been delivered to the City and all other recording requirements have been met.

(c) *Submittal of Record Plat Where Improvements Have Been Installed*

Where public improvements have been installed and approved for acceptance by the City prior

to recording of the Plat, the property owner, developer or contractor shall submit a maintenance bond in accordance with Section 21.8.6 Maintenance and Warranty of Improvements of these Regulations from each contractor, one sealed set of "as built" plans or record drawings (submitted as mylars), and an electronic copy of all plans (in a format as determined by the Director of Community Development, or designee), together with a letter stating the contractors' compliance with Section 21.8 Construction Plans and Management of these Regulations, and bearing sealed certification by the design engineer that all public improvements have been constructed in compliance with all City construction standards. An electronic PDF copy of such documents shall also be submitted. The property owner also shall submit copies of the approved Final Plat, revised to reflect the "as built" plans or record drawings, in the format and number as required by the Director of Community Development, or designee.

(d) *Submittal of Record Plat Where Improvements Have Not Been Installed*

Where public improvements have yet to be completed in connection with an approved Final Plat, the property owner shall submit in the format and number as set forth in the Engineering Standards Technical Manual, the approved Final Plat, revised to reflect any changes required by the Commission and Council.

(e) *Update of Owner Consents*

If there has been any change in the ownership prior to recordation of the approved Final Plat, the applicant shall furnish to the City an updated title policy commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas or some other proof of ownership, identifying all persons having an interest in the property subject to the Plat. If there has been any change in the owners since the time of the owner consent agreement provided under Section 21.4.2 Application and Procedures, the Final Plat shall be signed (on the face of the Plat in plain view) by each owner as of the date of filing, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Plat. Such consent shall be subject to review and approval by the City Attorney.

21.5 Development Plats

21.5.1 *Purpose and Effect*

(a) *Purpose*

The purpose of a Development Plat is to assure the adequacy of public facilities needed to serve the intended development and the overall compliance of such development with applicable requirements of this Subdivision Ordinance.

(b) *Authority*

This Section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.

(c) *Applicability*

Any person who proposes the development of a tract of land located within the limits or in the extraterritorial jurisdiction of the municipality must have a Development Plat of the tract prepared in accordance with this subchapter and the applicable plans, rules, or ordinances of the municipality, unless a Development Plat is not required in accordance with paragraph d below. For purposes of this Section, the term "development" means the construction of any building, structure or improvement of any nature (residential or non-residential), or the enlargement of any external dimension thereof. These Regulations shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:

(1) The development of any tract of land which has not been platted or replatted prior to the effective date of this Subdivision Ordinance, unless expressly exempted herein; or

(2) The development of any tract of land for which the property owner claims an exemption from the City's subdivision requirements, including requirements to replat, which exemption is not expressly provided for in Section 21.1.3 Exemptions; or

(3) The development of any tract of land for which the only access is a private easement or street; or

(4) The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed.

(d) *Exceptions. A Development Plat is not required*

(1) When a Final Plat, Minor Plat, or Replat in accordance with the requirements of this Subdivision Ordinance has been submitted.

(2) For bona fide agricultural activities; and,

(3) For construction of agricultural accessory structures and related development activities.

(e) *Effect*

Approval of a Development Plat shall authorize the applicant to submit Construction Plans for approval by the Director of Community Development, or designee under Section 21.8 Construction Plans and Management of these Regulations.

(f) *Prohibition on Development*

No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued for any development or land division subject to this Section until a Development Plat has been approved by the Council and submitted to the City for filing at the applicable County. Notwithstanding the provisions of this Section, the City shall not require building permits or otherwise enforce the City's Building Code in the City's extraterritorial jurisdiction in relation to any Development Plat required by this Subdivision Ordinance.

21.5.2 *Application and Procedures*

(a) *Responsible Official*

The Community Development Director, or designee shall be the Responsible Official for a Development Plat, and the Staff shall be the initial reviewing body for a Development Plat.

(b) *Required Information for all Applicants*

All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form and the administrative submission requirements available in the Community Development Department. Information required shall be the same as required for a Final Plat. In addition to this information, a Development Plat shall:

(1) Be prepared by a Registered Professional Land Surveyor;

(2) Clearly show the boundary of the Development Plat;

(3) Be accompanied by a plan of the site showing each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;

(4) Show all existing or proposed easements and rights-of-way within or adjacent to the Development Plat in accordance with the approved Plat submission requirements; and

(5) Be accompanied by the required number of copies of the Development Plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate or some other form of verification from the applicable County appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property.

A copy of all the above application materials for a Development Plat shall be simultaneously submitted to the Community Development Department for review in the same manner as for a Final Plat, or the application shall be deemed incomplete in accordance with Section 21.1.5 Applications and Procedures.

(c) *Accompanying Applications*

An application for a Development Plat may be accompanied by an application for rezoning approval, including an application for a Planned Development District or a Land Study. The rezoning application and Land Study application shall be decided first. The applicant must execute a Waiver of Right to 30-Day Action that is mandated by the State for general approval of Plats, including Development Plat approval.

(d) *Procedure*

The application and review procedure for a Development Plat shall be submitted to the City in the same manner as a Final Plat (see Section 21.4 Final Plat).

21.5.3 *Decision*

(a) *Procedural Steps*

(1) The Council, upon recommendation of the Commission shall decide whether to approve, approve with conditions, or deny the Development Plat application in the same manner as a Final Plat.

(2) The action of the Commission shall be noted on two (2) copies of the Development Plat, referenced and attached to any conditions determined.

(3) One (1) copy shall be returned to the applicant, and one (1) copy shall be retained in the City's files.

(4) A notation of the action taken on each Development Plat application and the reasons for the action shall be entered in the minutes of the Commission.

21.5.4 *Criteria for Approval*

(a) *The following criteria shall be used to determine whether the application for a Development Plat shall be approved, approved with conditions, or denied*

(1) The Development Plat is consistent with any applicable zoning requirements for the property, and any approved Development Agreement;

(2) The Plat conforms to the general layout of the approved Land Study, if any, and is consistent with the phasing plan approved therein;

(3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities to serve the development site conform to the master facilities plans for such facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans;

(4) The proposed provision and configuration of roads, water, wastewater, drainage and

park facilities are adequate to serve the development and meet the standards of this Section;

(5) Public, private (if approved) or franchise easements or rights-of-way for all public water, wastewater, roadway and drainage facilities or other public utility franchises have been designated;

(6) Fire lane access easements or street rights-of-way have been provided for access to all fire hydrants and fire department connections;

(7) Easements have been designated for all landscaped buffers and open space;

(8) The ownership, maintenance, and allowed uses of all designated easements have been stated on the Plat.

(9) The Development Plat, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County, meets the requirements in Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards and any applicable County standards to be applied under any interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242 and is approved by the County.

(10) The Plat is consistent with the adopted Comprehensive Plan, except where application of the Plan conflicts with state law.

21.5.5 *Expiration and Extension*

(a) *Effective Duration of Approved Development Plats*

(1) The approval of a Development Plat application shall remain in effect for a period of two (2) years from the date of approval by the Council, during which period the applicant shall submit and receive approval for Construction Plans for the property reflected on the Development Plat.

(2) If the final, approved Development Plat, as amended, has not been filed with the City within the two-year (2-year) period, the Development Plat approval, unless extended in accordance with Section 24.5 Expiration, Extension, and Reinstatement, shall expire and the applicable Plat shall be deemed null and void.

21.5.6 *Plat Recordation*

(a) *Procedure*

New development may not begin on the property until the development plat is filed with and approved by the municipality. Upon approval, the revised, final Development Plat shall be filed and maintained at the City. A Development Plat is not recorded at the applicable County by the City in the same manner as prescribed for a Final Plat.

21.6 Minor Plats

21.6.1 *Purpose, Applicability and Effect*

(a) *Purpose*

The purpose of a Minor Plat is to simplify divisions of land under certain circumstances outlined in State law.

(b) *Applicability*

An application for approval of a Minor Plat may be filed only in accordance with State law, when

all of the following conditions are met:

(1) The proposed division results in four (4) or fewer lots;

(2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Subdivision Ordinance or any other ordinance; and

(3) The Plat does not require the extension of any municipal facilities to serve any lot within the subdivision, however, right-of-way widening and easements shall be permitted as part of a Minor Plat.

(4) The replatting of existing platted lots must comply with Section 21.7 Revisions to Recorded Plats.

(c) *Effect*

Approval of a Minor Plat authorizes the applicant to submit an application for site preparation, building and other permits for any lot in the subdivision.

21.6.2 *Application and Procedures*

(a) *Responsible Official*

The Community Development Director or designee shall be the Responsible Official for a Minor Plat.

(b) *Application Contents*

All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form and the administrative submission requirements available in the Community Development Department. The Minor Plat document shall be prepared by a Registered Professional Land Surveyor.

(c) *Pre-Application Conference*

Prior to the official filing of a Minor Plat application, the applicant(s) may request a pre-application conference with the Community Development Director, or designee and any other pertinent City official(s). Such conference is optional, and before it is convened a vested rights waiver shall be submitted in accordance with Section 24.1.5 Pre-Application Conference and Vested Rights Waiver.

(d) *Accompanying Applications*

An application for approval of a Minor Plat may be accompanied by an application for approval of a site preparation, building and other permits for the land subject to the Plat, provided that the Minor Plat shall be decided prior to decision on any Permit.

21.6.3 *Decision*

(a) *Final Approval*

The Community Development Director or designee is authorized to approve a Minor Plat provided such Plat meets all requirements of these Regulations. Denial of a Minor Plat must be decided by the Council, upon recommendation of the Commission. Each Minor Plat must be approved, approved subject to conditions or denied within 30 days of a finding of completeness, Section 24.1.2 Application Completeness and Expiration unless the owner of the property provides a Waiver of Right to 30-day Action. Review, approval, and recording of Minor Plats shall be in accordance with procedures set forth for Final Plats in Section 21.4 Final Plat of these Regulations. Appeal of the Community Development Director or designee's decision shall be to the Commission at the next available meeting. The Commission may recommend to the Council

to approve, approve with conditions or deny such appeal based on its findings if it finds the Minor Plat meets or does not meet the requirements of these Regulations.

(b) *Deemed Approved*

If the Community Development Director, or designee fails to act on a Minor Plat application within thirty (30) days, the Minor Plat application shall be deemed approved.

21.6.4 *Criteria for Approval*

(a) *The Community Development Director or designee shall approve, conditionally approve or recommend denial of the Minor Plat application based upon the following criteria:*

(1) The Minor Plat is consistent with all zoning requirements for the property, all other requirements of this Subdivision Ordinance that apply to the Plat, all City ordinances and any approved Development Agreement;

(2) All lots to be created by the Plat already are adequately served by all required City utilities and services;

(3) The ownership, maintenance, and allowed uses of all designated easements have been stated on the Minor Plat; and

(4) The Plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

21.6.5 *Expiration*

(a) *Effective Duration of Approved Minor Plats*

The approval of a Minor Plat application shall remain in effect for a period of two (2) years from the date of approval by the Community Development Director or Council. If the Minor Plat has not been recorded within the two-year (2-year) period, the Minor Plat approval, unless extended in accordance with Section 24.5 Expiration, Extension, and Reinstatement, shall expire and the applicable Plat shall be deemed null and void.

21.6.6 *Recordation*

(a) *Submission for Recordation of Approved Minor Plats*

The property owner shall submit the approved Minor Plat, incorporating any required revisions, to the Community Development Director, or designee, who shall cause the Minor Plat to be recorded in the property records of the appropriate County.

21.7 Revisions to Recorded Plats

21.7.1 *General Requirements for Plat Revisions*

(a) *Applicability and Terminology*

(1) The procedures in this Section shall apply only if a property owner seeks to change any portion of a Plat that has been filed of record with the appropriate County including a note or restriction on the face of the plat or a recorded covenant or restriction applicable to such Plat. If a property owner files an amending plat or a minor plat to make such changes, and does not violate the notice provisions for replats contained in Texas statutes and in this Section, a replat is not required.

(2) The term “replat” includes changes to a recorded Plat, restriction or covenant, whether the change is effected by vacating the recorded Plat and approval of a new Plat

application, replatting without vacation, or approving an amended Plat.

(b) *City Action Required for Replats*

Except as expressly stated otherwise in this Section, any change to a recorded Plat or a portion of a plat that has been filed for record including a note or restriction shown on the face of a plat shall be subject to approval by the Council, upon recommendation of the Commission. The requirements and procedures for approval of such changes to a recorded Plat shall be in accordance with the requirements and procedures for a Final Plat application under Section 21.4 Final Plat of these Regulations.

(c) *Minor Replats*

A replat of four (4) or fewer lots that is not zoned, used or deed restricted to single-family or duplex residential may be administratively approved as if it were a Minor Plat, in accordance with Section 21.6 Minor Plats and Section 21.1.1 Authority, Purpose and Applicability provided and written notice is not required.

(d) *Construction Management*

If a Replat requires construction of additional improvements, the provisions of Section 21.8 Construction Plans and Management of these Regulations shall apply.

21.7.2 *Replats Without Vacation*

(a) *Applicability*

A Replat of all or a portion of a recorded Plat may be approved in accordance with State law without vacation of the recorded Plat, if:

(1) The Replat is signed and acknowledged by only the owners of the property being replatted; and

(2) Is approved after a public hearing on the Replat;

(3) The Replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded Plat.

(b) *Notice and Hearing*

Published notice of the public hearings on the Replat application shall be given in accordance with Section 24.2 Notice Requirements. The hearing shall be conducted by the Commission and subsequently by the Council in accordance with Section 24.3 Public Hearings.

(c) *Application*

The application for a Replat of a subdivision shall meet all application requirements of a Final Plat.

(d) *Partial Replat Application*

Any Replat that adds or reduces lots must include the original subdivision and lot boundaries. If a Replat is submitted for only a portion of a previously platted subdivision, the Replat must reference the previous subdivision name and recording information, and must state on the Replat the specific lots that have changed along with a detailed “Purpose for Replat” statement.

(e) *Criteria for Approval*

The Replat of the subdivision shall meet all review and approval criteria for a Final Plat. The Replat document shall be prepared by a Registered Professional Land Surveyor.

(f) *Effect*

Upon approval of the application, the Replat may be recorded and is controlling over the previously recorded Plat for the portion replatted.

21.7.3 *Special Replat Requirements*

(a) *Applicability*

In addition to compliance with the requirements of Section 21.7.2 Replats Without Vacation above, a Replat without vacation of the preceding Plat, in accordance with State law, must conform to the requirements of this section if:

(1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or

(2) Any lot in the preceding Plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

(b) *Exception*

The requirements of this section shall not apply to any approval of a Replat application for a portion of a recorded Plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single or duplex family residential usage. Such designation must be noted on the recorded Plat or in the legally recorded restriction applicable to such Plat.

(c) *Notice and Hearing*

In addition to the published notice required above, personal notice of the public hearings on single family or duplex the Replat application shall be given in accordance with Section 24.2.2 Personal Notice for Replats. Personal notice shall be accompanied by a copy of the language of subsection (d) below. The hearings shall be conducted by the Commission and subsequently by the Council in accordance with Section 24.3 Public Hearings.

(d) *Protest*

If the Replat application is accompanied by a variance petition and is protested in accordance with this Subsection, approval of the Replat shall require the affirmative vote of at least three fourths of the members of the Council present at the meeting. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the Replat application and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the Commission and/or Council prior to the close of the public hearing. In computing the percentage of land area under this section, the area of streets and alleys shall be included.

21.7.4 *Amending Plats*

(a) *Purpose*

The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded Plat consistent with provisions of State law.

(b) *Applicability*

The procedures for Amending Plats shall apply only if the sole purpose of the Amending Plat is to achieve the following:

(1) Correct an error in a course or distance shown on the preceding Plat;

(2) Add a course or distance that was omitted on the preceding Plat;

(3) Correct an error in a real property description shown on the preceding Plat;

(4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding Plat;

(6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving Plats, including lot numbers, acreage, street names, and identification of adjacent recorded Plats;

(7) Correct an error in courses and distances of lot lines between two adjacent lots, if;

a. Both lot owners join in the application for amending the plat;

b. Neither lot is abolished;

c. The amendment does not attempt to remove recorded covenants or restrictions; and

d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) Relocate one or more lot lines between one or more adjacent lots if;

a. The owners of all those lots join in the application for amending the plat;

b. The amendment does not attempt to remove recorded covenants or restrictions; and

c. The amendment does not increase the number of lots;

(10) Make necessary changes to the preceding Plat to create four (4) or fewer lots in the subdivision or a part of the subdivision covered by the preceding Plat; and: or

a. The changes do not affect applicable zoning and other regulations of the municipality;

b. The changes do not attempt to amend or remove any covenants or restrictions; and

c. The area covered by the changes is located in an area that the Shenandoah Commission or Council has approved, after a public hearing, as a residential improvement area; or

(11) Replat one or more lots fronting on an existing street including lots zoned, used or deed restrict to single-family and duplex residential, and;

a. The owners of all those lots join in the application for amending the plat;

b. The amendment does not attempt to remove recorded covenants or restrictions;

c. The amendment does not increase the number of lots; and

d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(c) *Effect*

Upon approval by the Community Development Director, or designee, an Amending Plat may be recorded and is controlling over the recorded Plat without vacation of that Plat.

(d) *Application Contents*

All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form. The Amending Plat document shall be prepared by a Registered Professional Land Surveyor.

(e) *Decision*

The Community Development Director or designee is authorized to approve an Amending Plat provided such Plat meets all requirements of these Regulations. Denial of an Amending Plat must be decided by the Council, upon recommendation of the Commission. Each Amending Plat must be approved, approved subject to conditions or denied within 30 days of a finding of completeness, Section 24.1.2 Application Completeness and Expiration unless the owner of the property provides a Waiver of Right to 30-day Action. Review, approval, and recording of Amending Plats shall be in accordance with procedures set forth for Final Plats in Section 21.4 Final Plat of these Regulations. Appeal of the Community Development Director or designee's decision shall be to the Commission at the next available meeting. The Commission may recommend to the Council to approve, approve with conditions or deny such appeal based on its findings if it finds the Amending Plat meets or does not meet the requirements of these Regulations.

(f) *Criteria for Approval*

The Community Development Director or designee shall decide whether to approve, conditionally approve or recommend denial of the Amending Plat application if the Amending Plat makes only those changes to the recorded Plat that are allowed and meets the criteria under Subsection (b) above;

(g) *Expiration*

Approval of an Amending Plat shall expire if the Plat is not submitted for recordation within the time period specified for recordation of a Final Plat.

21.7.5 *Plat Vacation*

(a) *Applicability*

A Plat vacation application must be approved by the Council, upon recommendation of the Commission, prior to vacation of any recorded Plat or portion thereof. A Plat may be vacated only in conjunction with approval of a new Plat application and in accordance with State law.

(b) *Application*

If no lot subject to the recorded Plat has been sold, the property owner may apply for a Plat vacation. If any lot in a subdivision has been sold, the recorded Plat or any portion thereof may be vacated only upon application of all lot owners in the subdivision. A Plat vacation application shall be accompanied by an application for a Land Study, Preliminary Plat, or Final Plat for the land subject to the recorded Plat or portion thereof to be vacated, prepared in accordance with these Regulations. A Plat vacation application also shall be accompanied by an unconditional Waiver of Right to 30-Day Action (mandated by the State for general approval of Plats) for the Plat vacation application, pending approval of a new Final Plat application for the same land.

(c) *Processing and Decision*

The Plat vacation application shall be decided by the Council, upon recommendation of the Commission, in conjunction with its decision on a new Plat application for the same land. The application for Plat vacation shall be processed together with the new Plat application in accordance with the procedures applicable to the new Plat application under this Section. If the new Plat application is for a Land Study or Preliminary Plat, decision on the Plat vacation

application shall be deferred or conditioned on approval of a Final Plat application for the land subject to the recorded Plat or portion thereof to be vacated. The Commission shall decide the Plat vacation application after it decides the Final Plat application.

(d) *Criteria*

The Council, upon recommendation of the Commission, shall approve the Plat vacation application upon approving the Final Plat application for the same land, and shall deny the Plat vacation application upon denial of such Final Plat application. The Final Plat application, as well as any preceding Land Study or Preliminary Plat application, shall be decided in accordance with the criteria applicable to such applications under this Section.

(e) *Effective Date of Plat Vacation*

The Plat is vacated when a signed, acknowledged instrument declaring the Plat vacated is approved and recorded in the manner prescribed for the original Plat. On the execution and recording of the vacating instrument, the vacated Plat shall have no further effect.

21.7.6 *Recordation*

(a) *Submission for Recordation of Approved Amending or Vacating Plats or Replats*

The property owner shall submit the approved Amending or Vacating Plat or Replat, incorporating any required revisions, to the Community Development Director, or designee, who shall cause the such Plat to be recorded in the property records of the appropriate County.

21.8 Construction Plans and Management

21.8.1 *Construction Plans*

(a) *Purpose*

The purpose of Construction Plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this Subdivision Ordinance.

(b) *Application Contents*

When required by this title either prior to or at the time of submission of an application for final plat approval of a subdivision application by the Council or by staff where administrative approval is authorized, a set of Construction Plans shall be submitted to the Community Development Department Director of Community Development. All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form. The subdivision improvement plans shall be submitted for the entire area covered by the subdivision application, and shall comply with all provisions of this Section.

(c) *Phasing Plan*

Where phasing is proposed for the construction and installation of the required subdivision improvements, approval of a phasing plan shall be required, provided, that all of the subdivision improvements are completed within the time period specified. The Director of Community Development or designee may approve, disapprove or conditionally approve the phasing proposed if the proposed phasing will provide for the orderly development of the subdivision with adequate access to all improvements, except that no phasing plan shall be approved unless the required drainage structures and ponding areas serving the subdivision are constructed as part of the initial phase of the development. Where the Director of Community Development or designee disapproves a phasing plan, the subdivider may appeal the decision to the Council upon

recommendation of the Commission, with a written request submitted to the Director of Community Development or designee. Whether or not the Director of Community Development or designee approves phasing at the time of the Construction Plan submission, a subdivider may request phasing and submit a phasing plan at any time prior to the expiration of the time period for completion of the subdivision improvements, or any authorized extension. A phasing plan submitted and approved by the Director of Community Development or designee after the approval of the Construction Plan submission, shall be considered an authorized amendment to the Construction Plans and such approved phasing plan shall be attached to and incorporated as part of the approved Construction Plans."

(d) *Responsible Official and Decision*

(1) The Director of Community Development or designee shall be the Responsible Official for approval of Construction Plans.

(2) Preliminary engineering including paving, utility and storm water engineering shall be submitted with the Preliminary Plat application and must be approved or approved with conditions prior to Preliminary Plat approval.

(3) Final construction plans shall be reviewed and approved, approved with conditions or returned for correction with sixty (60) calendar days. The final Construction Plans including paving and storm water engineering and the final shall be submitted in one package and must be approved or approved with conditions prior to the Final Plat submission. The subdivider shall provide and the Construction Plans shall contain all applicable improvements required by this title, including but not limited to the following:

a. Grading, and slope stabilization;

b. Drainage facilities;

c. Water and wastewater plans;

d. Streets and other rights-of-way (including sidewalks);

e. Bikeway and transit improvements (where applicable);

f. Survey monuments;

g. Street lights;

h. Traffic control signs and traffic signalization, Traffic calming devices (where applicable);

i. Landscaping;

j. Curb ramps;

k. Street pavement markings;

l. Parkland and open space;

m. Provisions for natural drainage and erosion protection.

n. Other improvements as may be required in the Shenandoah Design Manual or other applicable ordinances and plans.

o. It is the developer and his engineer's responsibility to pull together the plans into one package and follow-up on their review. The thirty (30) day State of Texas statute for approval of Plats only applies to final approval of Plats and does not apply to engineering and construction plans. Incomplete plans shall be returned to the applicant.

(4) Distribution and Review. Once the Construction Plans are approved, the property owner shall provide additional sets of the approved plans to the City, as specified by the Director of Community Development, or designee, for use during construction. A full set of the City approved and stamped Construction Plans must be available for inspection on the job site at all times.

(e) *Notification*

The Director of Community Development, or designee, shall notify the applicant in accordance with Section 24.2.4 Notification To the Applicant Following Decision that the Construction Plans are approved or accepted for construction. The Director of Community Development, or designee, shall also forward a written certification to the Community Development Director, or designee, advising of the approval of the Construction Plans. The certification shall identify the subdivision name, legal description, and acreage for which the approval was granted.

(f) *Revised Plan Submission*

If the conditions of approval require revision(s) to the Construction Plans, one (1) set shall be marked with objections noted (on the plans themselves and/or in memo format) and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and resubmit them for decision. All changes to the original submission shall be "clouded" or otherwise highlighted as changed. A set of Construction Plans revised to reflect the required changes shall be submitted to the Director of Community Development. The Director of Community Development, or designee, shall approve, approve with conditions or disapprove the revised Construction Plans based on revisions requested at the initial review of the plans. Construction Plans that do not contain all corrections shall be returned to the applicant's engineer with notice to the applicant. The third submission of corrections will require additional fees in accordance with the schedule for additional review time. At the time of submission, the design engineer shall certify that the Construction Plans meet the requirements of the ordinances. A copy of any Construction Plans submitted within the extraterritorial jurisdiction, after approval by the Director of Community Development, or designee, shall be forwarded to the appropriate county approval authorities. Additional copies may be requested by the Director of Community Development or designee for informational purposes and review by other agencies. The City will not require related significant changes in the final Construction Plans or Final Plat approval that contradict the Preliminary Plat approval, except it reserves the right to address Life Safety or other significant issues that the design engineer should have addressed in the Preliminary Plat.

(g) *Criteria for Approval*

The Director of Community Development, or designee, shall render a decision on the Construction Plans in accordance with the following criteria:

(1) The plans are consistent with the approved Preliminary Plat, and the proposed Final Plat;

(2) The plans conform to the development standards, and standards for adequate public facilities contained in this Subdivision Ordinance; and

(3) The plans conform to the specifications contained in the City of Shenandoah Design Manual (SDM).

(h) *Approval Required*

Construction Plans must be approved or accepted and authorized for construction by the Director of Community Development in accordance with this section prior to approval of the Final Plat and prior to Plat recordation. The Construction Plans must be complete and approved by the City and Security in accordance with Section 21.8.4 Security for Completion of

Improvements shall be submitted to and accepted by the City prior to Final Plat recordation or issuance of foundation or building permits.

(i) *Effect*

Approval of Construction Plans authorizes the property owner to install public improvements in rights-of-way and/or easements offered for dedication or previously dedicated to the public under an approved Preliminary or Final Plat for which site preparation and other required permits have been approved.

21.8.2 *Timing of Public Improvements, Permit Issuance*

(a) *Completion Prior to Final Plat*

Except as provided below, after approval of a Final Plat and Final Construction Plans before an approved Final Plat is recorded, the installation of all public improvements required to serve the subdivision, whether to be located off site or on site, including water, wastewater, drainage, roadway and park improvements, shall be finally completed in accordance with the approved Construction Plans.

(1) Park improvements in this instance refer to public parks being constructed as part of the development by the developer.

(2) If the development is being constructed in phases, and is platted in phases, park improvements shall be completed as phases are constructed.

(3) The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas shall be completed prior to Final Plat recordation in accordance with the approved Construction Plans, except as provided below.

(b) *Installation after Final Plat Approval*

(1) The Director of Community Development, upon request of the applicant, may defer the obligation to install one or more public improvements to serve the subdivision until after Final Plat recordation.

(2) The request shall be submitted with an application for Final Plat approval.

(3) Deferral of the obligation to install public improvements shall be conditioned on sufficient Security to secure the obligations as required in Section 21.8 Construction Plans and Management being provided to and accepted by the City prior to foundation or building permit issuance.

(c) *Off Site Easements*

All necessary off-site easements required for installation of offsite public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed by an instrument in a form approved by the City Attorney.

(d) *Permit Issuance*

(1) Grading Permits. Any grading within the corporate limits or within the extraterritorial jurisdiction shall conform to the applicable portions of the Shenandoah Code of Ordinances regarding grading. Grading permits may be issued on property requiring a subdivision as provided in this Section, as follows:

a. Clearing and Access Permit. No clearing and access permit may be issued Director of Community Development whether or not the requirements of the City of Shenandoah have been satisfied, until preliminary approval on a subdivision application has been granted by the Council or administratively by

the Community Development Director, or designee, as applicable. The Community Development Director or designee, may approve a Clearing and Access Permit prior to preliminary plat approval for surveying and geotechnical work, provided that grading for such access is less than twenty (20) feet in width

b. Pre-final Grading Permit. No pre-final grading permit may be issued by the Director of Community Development, or designee, whether or not the requirements of the City of Shenandoah have been satisfied, until preliminary approval on a subdivision application has been granted by the Council, upon recommendation of the Commission or administratively by the Community Development Director, or designee as applicable.

c. Final Grading Permit. No final grading permit may be issued by the Director of Community Development, or designee, whether or not the requirements of the City of Shenandoah have been satisfied, until final approval on a subdivision application has been granted by the Council or administratively by the Community Development Director, or designee as applicable, and the Final Construction Plans have been approved by the Director of Community Development, or designee.

d. Borrow Permit. A borrow permit shall be issued by the Director of Community Development, or designee, pursuant to the requirements of the City of Shenandoah.

(2) Building Permits

a. Plat Recordation Prior to Issuance of Permits. Whenever a subdivision plat is required by this Section or Section 21.1 Provisions Applicable to All Platting Procedures, no building permit shall be issued for any lot until the subdivision plat has been recorded and the requirements of all applicable City ordinances have been satisfied, except on Industrial, Commercial and Multi-family Developments, foundation or building permits may be issued by the Building Official prior to the Plat being filed if:

1. Sufficient Security as required by Section 21.8.4 Security for Completion of Improvements have been provided in a form acceptable to the Director of Community Development, or designee, and accepted by the City prior to the issuance of foundation or building permits.
2. The final signed copies of the Plats for recordation have been recorded or delivered to the City to hold until the agreed upon recording date, along with all fees, certificates and until all other recording requirements have been met.

b. Subdivision Improvements Required Prior to Issuance of Permits: No building or foundation permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed, inspected, approved and accepted by the city as required in Section 21.8.5 Inspection and Acceptance of Public Improvements, except as follows:

1. In multi-family, retail, commercial and industrial subdivisions, foundation or building permits for lots within the subdivision may be issued by the Building Official if authorized by the Director of Community Development or designee and the Fire Marshall where such development will not conflict with the construction of any public

infrastructure and sufficient security as required in Section 21.8.4 Security for Completion of Improvements have been provided in a form acceptable to the City Attorney, or designee.

2. Under no circumstance will construction be allowed beyond the foundation stage until such time as fully charged fire hydrants and a drivable, all weather surface acceptable to the Fire Marshall has been provided to such site.
3. Up to four model homes may be permitted prior to any of the above requirements, provided the Fire Marshall approves of access and fire protection.

(3) Occupancy Permits. Whenever a subdivision plat is required by this Section, no occupancy permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed and inspected and approved by the city as required in Section 21.8.5 Inspection and Acceptance of Public Improvements. For purposes of this subsection, required subdivision improvements serving a lot shall mean the improvements to the street abutting the lot and extending to the nearest intersecting street outside the subdivision, and any required water, wastewater, drainage, fire protection or other utilities as required by the Building Official, Fire Marshall or designee.

21.8.3 *Completion of Necessary Public Improvement Extension*

(a) *Extension of Time*

Where good cause exists, the Director of Community Development, or designee, may extend the period of time designated for completion of necessary improvements, specified within agreements required by this section. Such extension of time shall be reported to the Commission and Council and recorded in the minutes. No such extension shall be granted unless additional security has been provided to the City by the subdivider to cover the extended period of time.

21.8.4 *Security for Completion of Improvements*

(a) *Security*

Whenever the obligation to install public improvements to serve a subdivision or development is deferred until after recordation of the Final Plat and foundation or building permits are requested on lots within the subdivision, the subdivider shall guarantee proper construction of any remaining public subdivision improvements, in accordance with standards contained or referred to herein this Section, by one of the methods described below:

(1) Performance Bond. A bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City of Shenandoah, on the form provided by the City of Shenandoah in an amount equal to the cost of improvements remaining to be installed as required by this Section. The performance bond shall be approved as to form by the City Attorney.

(2) Trust Agreement. A trust deposit in a bank or trust company for the benefit of the City of Shenandoah, of a sum of money equal to the estimated cost of all improvements remaining to be installed as required by this Subdivision Ordinance. Selection of trustee shall be executed on the form provided by the City and approved as to form by the City Attorney.

(3) Irrevocable Letter of Credit. A letter, on a form provided by the City, signed by the principal officer of a local bank, Federally insured savings and loan association, or other

financial institution acceptable to the City of Shenandoah, agreeing to pay the City of Shenandoah on demand a stipulated sum of money to apply to the estimated cost of all improvements remaining to be installed as required by this Subdivision Ordinance. The guaranteed payment sum shall be the estimated costs approved by the Director of Community Development, or designee.

(b) *Amount and Acceptability*

The security shall be issued in the amount of one hundred and twenty-five percent (125%) of the cost estimate approved by the Director of Community Development, or designee, for all remaining public improvements associated with the subdivision. The consulting engineer shall determine the percentage of total work called for by the Subdivision Approval which has already been performed and develop a cost estimate of the remaining public improvements acceptable to the Director of Community Development, or designee. The security shall be subject to the approval of the City Attorney.

(c) *Security for Construction in Extraterritorial Jurisdiction*

The security shall be in a form and contain such terms as are consistent with any interlocal agreement between the City and the County under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions of Subsections (a) and (b).

(d) *Partial Release*

(1) Upon application of the subdivider, the Director of Community Development, or designee, or his designee shall determine the percentage of total work called for by the Subdivision Approval that has already been performed. That portion of the total, less any prior amounts released and a retainage not to exceed ten percent (10%) of the total shall then be released.

(2) The Community Development Director, or designee and other necessary City officials shall execute any documents necessary to cause release of any portion of the security in accordance with this provision, provided that all such documents shall be subject to approval by the City Attorney.

(3) No partial release shall be granted where any substantial part of work performed prior to the date of application fails to meet City standards and specifications for any reason other than incompleteness.

(e) *Remedies*

In addition to all other remedies authorized in this Section, where a security has been posted, but required public improvements have not been installed in accordance with the terms of these Regulations, the City may:

(1) Declare the subdivision project to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the subdivision project is declared to be in default;

(2) Obtain funds under the security and complete the improvements itself or through a third party; or

(3) Assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's posting of security to complete the public improvements serving the tract.

(4) If no lots have been sold, the City may initiate proceedings to have the plat vacated.

21.8.5 *Inspection and Acceptance of Public Improvements*

(a) *Inspections and Entry*

(1) The Director of Community Development or his authorized representative shall inspect the construction of improvements while in progress as well as upon completion. Construction shall be in accordance with the approved Construction Plans. The Director of Community Development, or designee, shall have the right to enter upon the subdivision site for the purpose of conducting inspections. The Director of Community Development, or designee, shall provide for the inspection of required subdivision improvements during construction to insure general conformity with plans and specifications as approved. If the Director of Community Development, or designee, finds, upon inspection, that any of the required subdivision improvements have not been constructed in accordance with the Construction Plans, these Regulations or the SDM , then the subdivider shall be responsible for making the necessary changes to insure compliance. Any significant change in design required during construction shall be made by the subdivider's engineer, and shall be subject to prior approval by the Director of Community Development. If the Director of Community Development finds upon inspection that any of the required public improvements have not been constructed in accordance with the approved Construction Plans, the property owner shall be responsible for completing and/or correcting the public improvements.

(2) Upon completion of each approved phase of the subdivision construction, the subdivider shall notify the Director of Community Development, or designee, that the work is ready for a final inspection. The Director of Community Development or designee, shall, within ten (10) working days of a notification by the subdivider, arrange and conduct for a joint inspection with the subdivider and the contractor to determine that each aspect of the subdivision has been installed per City standards, and in conformity with the approved Construction Plans. Deficiencies requiring correction by a subdivider resulting from an inspection of the Director of Community Development, or designee, on any phase of the subdivision construction shall be made in writing, and such deficiencies shall be corrected within thirty (30) days of the written correction notice unless otherwise agreed to by the Director of Community Development, or designee, in writing. A subsequent inspection of the subdivision construction in any phase requiring correction shall be made within five (5) working days from a request of the subdivider. It shall be the duty of the subdivider to document that the requirement has been met. Documentation that this inspection has been successfully performed shall be submitted to the Director of Community Development, or designee, prior to the acceptance of any approved phase of the subdivision improvements and the contractor’s release from liability.

(3) The subdivider shall pay all necessary inspection fees, and no permits shall be issued until the required fees have been paid.”

(b) *Submission of As Built Plans or Record Drawings*

The City shall not accept dedication of required public improvements until the applicant's engineer has certified to the Director of Community Development, or designee, through submission of a detailed "as built" or record drawing or survey Plat of the property and any off site easements, the location, dimensions, materials, and other information establishing that the public improvements have been built in accordance with the approved Construction Plans. Each as built or record drawing sheet shall show all changes made in the plans during construction and on each sheet there shall be an “as built” or “record” stamp bearing the signature of the engineer and date. An electronic copy of such drawings in accordance with the Director of Community Development, or designee’s submission requirements shall also be provided. A PDF

copy of such drawings shall also be submitted. The drawings shall contain:

(1) A complete set of "as-built" film reproducible improvement plans for the subdivision. The "as-built" plans shall illustrate that all of the subdivision improvements are in accordance with the Construction Plans and with this Section, as approved for the subdivision; and that said subdivision improvements are ready for acceptance by the City, and are free and clear of any and all liens and encumbrances;

(2) An "as-built" survey of the City monuments containing the seal and signature of the surveyor responsible for their location. The survey shall note the elevation of each monument, the reference benchmark upon which the elevations are based, and the horizontal location of each monument with respect to the platted street centerlines."

(c) *Acceptance or Rejection of Improvements*

(1) The Director of Community Development, or designee, shall be responsible for certifying acceptance of completed subdivision improvements intended for dedication to the City of Shenandoah.

(2) Within the Corporate Limits. Upon completion of the construction of the subdivision improvements, the subdivider shall request that the City accept the improvements for maintenance. Acceptance of the public improvements shall not be unreasonably delayed, withheld, or denied by the Director of Community Development or Council. The public improvements may be accomplished in phases; provided, that the phasing was is shown on the approved Construction Plans approved by the Director of Community Development, or designee, pursuant to this Section, and that all phases of the subdivision improvements are completed within the time period specified. After final inspection, the Director of Community Development, or designee, shall notify the subdivider and the Community Development Director in writing as to the acceptance or rejection of such construction.

(3) He/she shall reject such construction only if it fails to comply with standards and specifications of the City. If he rejects such construction and the developer fails to make the corrections as requested, the City Attorney shall, on direction of the Council, proceed to enforce the guarantee provided by Security called for in this section.

(4) If the Director of Community Development, or designee, accepts such construction upon certification by the design engineer that the improvements have been constructed according to the authorized Construction Plans and upon review of such inspections by City Inspectors, the City shall execute all the necessary documents to release the full amount of security, including any retainage. The Director of Community Development or designee shall issue a certificate to the property owner stating that all required public improvements have been satisfactorily completed. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance.

(d) *Disclaimer*

Approval of a Preliminary Plat or Final Plat by the Council, upon recommendation of the Commission shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with these Regulations.

(e) *Acceptance of Improvements for Land in Extraterritorial Jurisdiction*

Where the facilities to be constructed are located within the City's extraterritorial jurisdiction, and are to be dedicated to a County, the Director of Community Development, or designee, shall coordinate with the County to ensure that the public improvements have been constructed in

accordance with approved Construction Plans, and are ready for acceptance by the County. Any public improvements or property to be dedicated to the City rather than the County shall be inspected and must be approved if all requirements have been met and accepted for dedication or future dedication upon annexation.

21.8.6 *Maintenance and Warranty of Improvements*

(a) *Maintenance During Construction*

The property owner shall maintain all required public improvements during construction of the development. Any damage to the public improvements incurred prior to acceptance of the City shall be the responsibility of the subdivider.

(b) *Bond*

The owner shall covenant to warranty the required public improvements for a period of two (2) years for defective material, construction or workmanship following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of fifty percent (50%) of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

(c) *Obligations Under Agreement*

Delete entire "Obligations Under Agreement" section and add the following:

(d) *One-Year Maintenance Guarantee*

Prior to issuance of the certificate of acceptance by the Director of Community Development, or designee, pursuant to these Regulations, a one-year maintenance guarantee in favor of the city or county, shall be provided by the subdivider by means of guarantee acceptable to the City Attorney.

(e) *Additional One-Year Extended Maintenance Guarantee Required after Maintenance Repair of Defected Area*

In the event of the maintenance or repair of a defect in the roadway improvement for any accepted street classification during the initial guarantee period, the subdivider shall provide a one-year extended maintenance guarantee in favor of the city or county for the entire station(s) of the defect area, such one-year period to commence upon completion of the subject maintenance or repair. Such extended maintenance guarantee procedure shall be repeated until the defect with the affected station(s) has been remedied.

21.8.7 *Subdivision and Subdivision Participation Agreements*

(a) *Subdivision Agreements*

As defined in Section 8.3.356 Subdivision Agreement on a form acceptable to the City Attorney must be prepared, executed and recorded in the deed records prior to the filing of a plat, where applicable. In addition, a note will be placed on the final recorded plat indicating that the property encompassed by the plat is subject to a Subdivision Agreement. The Subdivision Agreement will specify the responsibilities between the City and a property owner through which the City or property owner agrees to a schedule of improvements, a phasing of a project or any other agreement between the parties. A Subdivision Participation Agreement (see following) will be used to outline financial participation of subdivision improvements.

(b) *Subdivision Participation Agreements*

As defined in Section 8.3.360 Subdivision Participation Agreement, a Subdivision Participation Agreement on a form acceptable to the City Attorney must be prepared, executed and recorded in the deed records prior to the filing of a plat, where applicable. The Subdivision Participation

Agreement will specify the responsibilities between the City and a property owner through which the City or property owner agrees to pay a proportional percentage of a required public improvement or public amenity or for a portion of improvements in excess of those required under current ordinance.

Section 22.0 General Requirements

22.1 Adequate Public Facilities

22.1.1 *General Policy*

(a) *Adequate Service for Areas Proposed for Development*

Land proposed for development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities and park and open space facilities. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or offsite.

(b) *Responsibilities of the Developer*

The subdivider shall pay all design, engineering, labor, and construction costs for facilities required by this Subdivision Ordinance, except to the extent that this section specifically provides for full or partial payment by the City of Shenandoah or others. The provisions of this section shall apply to resubdivisions as well as to subdivisions. Specifically, the developer shall be responsible for the following:

(1) Phasing of development or improvements in order to ensure the provision of adequate public facilities;

(2) Extensions of public facilities and roadways (including any necessary on-site and off-site facilities) to connect to existing public facilities;

(3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or off-site);

(4) Providing proof to the City of adequate public facilities;

(5) Making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable;

(6) Providing for all operations and maintenance of the public facilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the facilities …reword...provided that the developer is responsible until the City or other public entity accepts the improvements.;

(7) Providing all security as required in Section 21.8 Construction Plans and Management for the construction of the public facilities;

(8) Obtaining approvals from the applicable utility providers other than the City; and

(9) Complying with all requirements of the utility providers, including the City and applicable drainage districts

22.1.2 *Conformance to Sustainable Design Principals*

(a) *Conformance*

The purpose of this section is to incorporate sustainable general design principles for those proposed subdivisions consisting of three (3) or more total gross acres. The intent of these sustainable general design principles is to achieve a development that is designed to promote a pedestrian-friendly environment through connected sidewalks, pathways, parks, trails, greenbelts, plazas, open areas, or other walkable features, while accommodating a range of

transportation choices where possible, including a network of transit, pedestrian and bicycle systems that provide alternatives to the automobile. These sustainable general design principles shall serve as guidelines only, and compliance with any design element within the proposed subdivision shall be determined on a case-by-case basis as part of the plat review and approval process. It is not intended that every proposed subdivision conform to all or any set number of the enumerated sustainable general design principles; provided, however, that the intent and spirit of these guidelines shall be considered in evaluating the proposed subdivision application.

(1) The proposed subdivision should be designed to promote a pedestrian-friendly environment through connected sidewalks, pathways, parks, trails, greenbelts, plazas, open areas, or other walkable features. The proposed subdivision should accommodate a range of transportation choices where possible, including a network of transit, pedestrian and bicycle systems that provide alternatives to the automobile.

(2) The streets should be of comfortable scale and interconnected to reduce the number and length of automobile trips, and laid out in a network to serve both vehicles and pedestrians.

(3) The design and layout of the proposed subdivision should contribute to the physical definition of streets as civic places.

(4) The proposed subdivision should be designed to allow a mix of land use types and densities, as allowed by the underlying zoning, to be integrated within the proposed development and not isolated.

(5) The subdivision design should be sensitive to the natural site resources – hydrology, terrain, geology, ecology, wildlife, and vegetation – and where possible, preserves these resources

(6) Overall, the proposed subdivision should enhance good urban design, scale, diversity, and proper integration of land use types to achieve quality growth.

22.1.3 *Conformance to Plans*

(a) *Conformance*

Proposed capital improvements serving new development shall conform to and be properly related to the public facilities elements of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services including parks and open space, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

(1) Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the City's Comprehensive Plan shall be related to the character and uses of the surrounding properties in accordance with the intent, policies and provisions of this and all other ordinances.

(2) The Council, upon recommendation of the Commission, shall consider the Shenandoah Comprehensive Plan, as well as appropriate parks and school district plans, and may deny approval of subdivisions and resubdivisions not in conformity with these plans. The Commission and/or Council may refer the subdivider to the appropriate School Board of Trustees to seek appropriate recommendations.

(b) *Thoroughfare Plan Amendments*

(1) No Final Plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for thoroughfares as shown on the Thoroughfare Plan.

(2) The Thoroughfare Plan is a guide for the roadway connections and types that will be needed in the future. Subject to Director of Community Development, or designee,

approval, as long as the connection is made, whether or not it is close to the exact alignment shown on the Thoroughfare Plan, no Thoroughfare Plan amendment should be necessary.

(3) If a different roadway type is found to be adequate or if the connection is not proposed to be made, then the thoroughfare plan shall be amended, upon provision of a Traffic Impact Analysis of the proposed amendment in accordance with Section 22.10 Traffic Impact Analysis.

(4) The design and construction of the proposed thoroughfare shall be in conformance with the City's master plans for thoroughfares and with the City of Shenandoah Design Manual (SDM), and shall be subject to approval by the Director of Community Development, or their designee.

(c) *Water and Wastewater Plans*

(1) No Final Plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary wastewater system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided.

(2) The design and construction of the water system and of the sanitary wastewater system to serve the subdivision shall be in conformance with the City of Shenandoah Utilities master plans and construction standards for water and wastewater facilities and with the Rules and Regulations of the City and with the City of Shenandoah Design Manual (SDM), and shall be subject to approval by the Director of Community Development, or designee.

(3) Subdivisions either in the ETJ or recently annexed and that are not served by the City but by other systems shall either meet the same City requirements or the requirements of the other utility provider but also be subject to approval by the Director of Community Development, or designee.

22.2 Dedication, Construction Requirements and City Participation

22.2.1 *Findings on Necessity for Right-of-Way Dedication and Construction as a Condition of Development Approval*

(a) *Support for New Development.*

(1) New development must be supported by adequate levels of public facilities and services.

(2) It is necessary and desirable to provide for dedication of rights-of-way and easements for capital improvements to support new development at the earliest stage of the development process.

(3) Requirements for dedication and construction of capital improvements to serve a proposed new development shall be attached as conditions of approval of any development application that contains a specific layout of the development.

(b) *Essential Nexus*

There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.

(c) *Mitigation of Development Impacts; Proportional Share*

The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a development project contributes not more than its proportional share of such costs in accordance with these Regulations.

22.2.2 *Property Owner's Obligation*

(a) *Dedication and Construction of Improvements*

The property owner shall dedicate all rights-of-way and easements for, and shall construct, capital improvements within the rights-of-way or easements for those water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans and construction design standards, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed. Such dedication and construction requirements shall also be in accordance with other provisions of these Regulations including the Roadway, Water, Wastewater and Drainage Sections.

(b) *Facilities Impact Studies*

The Director of Community Development, or designee, may require that a property owner prepare a comprehensive Traffic Impact Analysis, drainage study or other public facilities study in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. A Traffic Impact Analysis will be required when a development generates traffic that meets the thresholds as listed in Section 22.10 Traffic Impact Analysis. In the case of proposed water or wastewater service to a development by the City, such study may be required by the Director of Community Development, or designee. The study shall identify at a minimum the adequacy of existing facilities and the nature and extent of any deficiencies, and the capital improvements needed to meet the adopted level of service assuming development at the intensity proposed in the development application. The study shall be subject to approval by the Director of Community Development, or designee, as applicable. The Director of Community Development, or designee, also may require, at the time of approval of a subsequent development application, an update of a public facilities study approved in connection with the original development application.

22.2.3 *Timing of Dedication and Construction*

(a) *Initial Provision for Dedication or Construction*

(1) The City shall require that the application will demonstrate that a proposed development shall be adequately served by public facilities and services at the time for consideration of approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a Planned Development (PD) zoning district, or other overlay zoning district; a petition for an annexation agreement or a Development Agreement; an application for a Land Study, or an application for a Preliminary Plat or Final Plat.

(2) As a condition of approval of the development application, the City may require provision for dedication of rights-of-way or easements for, and construction of, capital improvements to serve the proposed development where warranted.

(b) *Deferral of Obligation*

(1) The obligation to dedicate rights-of-way for or to construct one or more capital improvements to serve a new development may be deferred until approval of a subordinate development permit, or, in the case of a development proposed to be

developed in phases, until a subsequent phase of the development, on the sole discretion of the City, upon written request of the property owner, or at the City's own initiative.

(2) The City must find that the deferral of the obligation to a later phase has no negative impact on the proposed development and that any additional costs are provided for.

(3) As a condition of deferring the obligation, the City may require that the developer enter into a Developer and/or Developer Participation. Agreement pursuant to Section 21.8 Construction Plans and Management, specifying the time for dedication of rights-of-way for or construction of capital improvements serving the development.

22.2.4 *Relief from Obligations*

(a) *Proportional Relief*

In order to achieve proportionality between the demands created on public facilities by a proposed development and the obligation to provide adequate public facilities, the City may participate in the costs of capital improvements in accordance with these Regulations, credit or offset the obligations against payment of any City fees, or relieve the property owner of some or part of the obligations in response to a petition for relief from a dedication or construction requirement pursuant to Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement of these Regulations.

22.3 Extraterritorial Jurisdiction (ETJ) Standards

22.3.1 *General Provisions*

(a) *Applicability*

Owners of property within the extraterritorial jurisdiction who propose a subdivision of land shall be subject to the provisions of Section 21.1 Provisions Applicable to All Platting Procedures. The regulations contained within these Regulations and including the Shenandoah Design Manual, shall be applicable except as modified by this Section.

(b) *Plat Applications within the Extraterritorial Jurisdiction*

(1) Where the land to be platted lies within the extraterritorial jurisdiction of the City of Shenandoah, no Minor Plat, Preliminary Plat, Final Plat or Replat application shall be accepted as complete in accordance with Section 24.1.2 Application Completeness and Expiration for submission by the Responsible Official unless the application is accompanied by verification that a copy of such Plat has been delivered to Montgomery County.

(2) If the City has not received a decision from Montgomery County on matters pertaining to the Final Plat application which are to be determined by Montgomery County, the application for Final Plat approval shall be accepted for submission by the City, but shall either be approved subject to subsequent County approval or be denied, unless a Waiver of Right to 30-day Action is approved.

(3) No Final Plat shall be recorded with the County Clerk until both the City of Shenandoah and Montgomery County have approved and the appropriate officials have signed such Final Plat.

(c) *Ordinance Conflicts*

Since the area within the ETJ is subject to the subdivision platting rules and regulations of both the City of Shenandoah and Montgomery County, and those regulations may be different,

conflicts between the regulations will arise. The more stringent of those rules and regulations shall apply.

(d) *Connections to Existing City Water or Wastewater System Outside the City Limits*

Applications for connection to existing portions of the City water or wastewater system, pursuant to the City Rules and Regulations, for uses located outside the City limits will be granted only with the approval of the City Administrator or designee.

(e) *General Extension Policies*

(1) It is in the best interest of the City and the general health, safety and welfare to encourage development in areas adjacent to compatible development already receiving City services where those services have excess capacity.

(2) It is in the City's best interest to discourage development in remote areas as well as those areas that exhibit environmental hazards.

(3) It is in the City's best interest fiscally, socially and environmentally to annex areas that:

a. Need to be protected in order to prevent or reduce flood damage in existing urban areas;

b. Possess unique physical characteristics;

c. Have requested City services;

d. Minimize fiscal liability;

e. Are currently urbanizing or exhibit potential for urbanization

(4) It is in the City's best interest to withhold all water and wastewater extensions outside City limits except in instances where the extension will serve a large volume user or large development who has agreed to annexation at a predetermined date; and, who has demonstrated that a significant community benefit will accrue to the City if it provides such service outside City limits; and where no significant fiscal liabilities will be incurred by the City of Shenandoah.

(5) It is in the City's best interest fiscally, socially and environmentally to provide services other than water and wastewater to individual users beyond City limits:

a. Upon request and under contracts or cost-sharing arrangements that minimize future fiscal liability;

b. Upon request and under contracts or cost-sharing arrangements that encourage compact development;

c. Upon request and under contracts or cost-sharing arrangements that ensure compliance with City subdivision, building, electrical, plumbing and fire codes;

d. When it is not in the City's best interest to annex the areas to be served.

(6) It is in the City's best interest fiscally, socially and environmentally to provide services through water supply corporations, County or other similar organization in the ETJ:

a. Under contracts that minimize future fiscal liability for the City;

b. Under contracts that encourage compact development;

c. Under contracts that ensure compliance with City subdivisions, building, electrical, plumbing and fire codes;

d. When it is not in the City's best interest to annex the areas to be served.

22.3.2 *Water and Wastewater Service*

Subdivisions within the extraterritorial jurisdiction shall provide water and wastewater service in accordance with the provisions of this section, provided that nothing within this section is intended to conflict with state law or the rules and regulations of the Texas Commission on Environmental Quality, or to interfere with any permit, license or certificate, to include but not limited to a certificate of public convenience and necessity, granted by the State or TCEQ that establishes who is responsible for providing water and waste water service to a specified area. The Council, upon recommendation of the Commission, shall not grant a subdivider Final Plat approval unless the subdivision application meets all of the following:

(a) *Water Service*

All subdivisions shall provide a complete water service and distribution system capable of delivering potable water to every lot in the subdivision in sufficient capacity to provide for the complete water use needs of the subdivision, and complying with the following:

(1) Water service shall be provided by the City of Shenandoah Utilities in accordance with the City Rules and Regulations.

(2) In the event the City of Shenandoah Utilities does not agree to provide water service within the time limits stated in these Regulations, the subdivider shall provide water service in accordance with these Regulations.

(3) Where drinking water is to be supplied to a subdivision from a public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in the Texas Administrative Code (TAC).

(4) Retail Utility Agreements. Subdividers who propose to supply drinking water by connecting to an existing public water system other than the City of Shenandoah must provide a written agreement with the retail public utility on a Retail Public Utility Agreement acceptable to the City Attorney The agreement must provide that the retail public utility has or will have prior to Final Plat approval the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty years. The agreement must reflect that subdivider has paid, or provided financial guarantees for the payment of, the cost of water meters or other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service will be available to each lot.

(5) Design and Construction. All water facilities within a subdivision within the ETJ of Shenandoah meeting Section 22.4 Water shall be designed and constructed to City of Shenandoah Utilities standards and to all state laws, policies, standards, rules and regulations for an approved public water system, including those covering the preparation, submittal and approval of plans and specifications for water systems and acceptable operating practices, and in conformance with all laws, policies, standards and rules and regulations for establishing the ISO rating of the City and current fire codes of the City, provided such service is to be provided by the City. If water is provided by a water district or other provider holding a permit of Certificate of Convenience and Necessity (CCN), the water facilities shall be designed and constructed per the standards of that entity and the TCEQ. If an area is subsequently deannexed by the non-City provider, then water facilities shall be designed and constructed to City standards.

(6) Non-City Systems.

a. Within the extraterritorial jurisdiction, if the City of Shenandoah Utilities determines within 60 days of the filing of a complete application, as defined in Section 24.1.2 Application Completeness and Expiration, that public water service cannot be provided within twelve months from the date of its action on the water application, the subdivider shall be allowed to provide water service

(7) Nonpublic Water Systems.

a. An exception may be granted by the Council, upon recommendation of the Commission, in unique situations for a subdivision to be supplied by a non-public water system. It is the intent of these Regulations that all water systems in the City of Shenandoah and the ETJ be connected to a public water system.

b. The developer shall provide documentation that a financial mechanism such as a Public Improvement District to fund and operate such a non-public water system is or will be in place prior to development. Such systems must meet all requirements of this Section and be approved by the Director of Community Development, or designee.

(8) Individual Wells Within the ETJ.

a. Proposed subdivisions with individual wells within the ETJ shall require an exception to these Regulations and be subject to approval by the Council upon recommendation of the Commission. They also must be approved by the appropriate health official and this approval shall be documented by the appropriate health official's signature on the water system statement on the Plat. The developer must submit with the Plat application a certificate from a professional engineer registered in Texas or a geoscientist licensed to practice in Texas verifying the adequacy of the proposed source of well supply prior to Plat approval. The proposed subdivision must meet the requirements in Section 22.3.3 Residential Subdivision Lot Sizes.

b. Compliance with Other Regulations. Installation, operations and maintenance of individual wells shall comply with City standards, regulations of the TCEQ, any other applicable State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.

(9) Testing. Where individual wells or other nonpublic water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (thirty years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC.

a. Without any treatment to the water; or

b. With treatment by an identified and commercially available water treatment system.

(10) Transportation of Potable Water. The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute

an emergency.

a. Wastewater Service. All subdivisions shall provide a complete wastewater collection system capable of properly removing wastewater from every lot in the subdivision in sufficient capacity to provide for the complete removal of all wastewater generated by the subdivision, and complying with the following:

(11) Wastewater Service. All subdivisions shall provide a complete wastewater collection system capable of properly removing wastewater from every lot in the subdivision in sufficient capacity to provide for the complete removal of all wastewater generated by the subdivision.

(12) Wastewater service shall be provided by the City of Shenandoah Utilities in accordance with City Rules and Regulations.

(13) The City shall process an application and determine wastewater provision in the same manner as the water service determination in Section 22.3.2 Water and Wastewater Service. If wastewater cannot be provided within said 12 months, the subdivider shall provide wastewater service in accordance with one the following:

a. Public sewerage facilities (other than the City of Shenandoah Utilities):

1. A subdivider who proposes the development of an organized wastewater collection and treatment system shall obtain a permit to dispose of wastes from the Texas Commission on Environmental Quality (TCEQ) and approval of engineering/planning materials for such systems in accordance with the 30 Texas Administrative Code (TAC).
2. A subdivision that proposes to dispose of wastewater by connecting to an existing permitted facility shall provide a copy of the written agreement with the permittee or retail public utility on a Retail Public Utility Agreement acceptable to the City Attorney. The agreement shall indicate a willingness and capacity to serve the proposed development, the total occupancy of the proposed subdivision. Engineering plans for the proposed wastewater collection lines shall be approved by the TCEQ prior to construction.

b. On-site sewage facilities. Where the City of Shenandoah Utilities or other public wastewater system is not required or planned to be extended in the ETJ, in accordance with applicable standards of this Section, the authorized health authority may grant an exception to provide wastewater service to a subdivision with on-site sewage disposal systems. Plans shall be prepared for installation of onsite sewage disposal systems designed to serve each lot in the subdivision. Where non-City wastewater lines are planned to collect wastes for transport to private, self-contained sewage treatment facilities within the subdivision, both the sewage collection system as well as necessary treatment facilities shall be installed by and at the expense of the subdivider. Plans and installation of such improvements must be approved by the Director of Community Development, or designee. The developer shall provide documentation that a financial mechanism such as a Public Improvement District to fund and operate such a wastewater system is or will be in place. Such systems must meet all requirements of this Section and be approved by the Director of Community Development, or designee

1. A sewage disposal plan shall be designed by a registered professional engineer or registered sanitarian.
2. On-site sewerage facilities for the on-site disposal of sewage in the

amount of five thousand gallons per day or greater shall obtain a wastewater permit from the TCEQ.

3. On-site sewerage facilities not required to obtain a wastewater permit from the TCEQ shall obtain a "permit to construct" from an authorized agent in accordance with the Texas Health and Safety Code, other applicable state codes and the Sewage Facility Order of Montgomery County, Texas.
4. On-site sewerage facilities proposed near lakes, water retention ponds or rivers shall be licensed and installed in accordance with the requirements established by the TCEQ in the Texas Administrative Code (TAC).
5. On-site sewerage facilities proposed within aquifer recharge zones shall be licensed and installed in accordance with the requirements established by the TCEQ in the Texas Administrative Code (TAC).
6. Proposals for on-site sewage disposal systems shall be subject to the review, approval and inspection of the TCEQ or its authorized agent to assure that the systems are in compliance with the Texas Health and Safety Code and the Texas Administrative Code (TAC).
7. The proposed subdivision must meet the requirements in Section 22.3.3 Lot Requirements -Extra-Territorial Jurisdiction.
8. Plans for onsite sewage disposal, as well as actual installation of such facilities, shall be subject to approval by appropriate public health authorities in order to meet requirements of this Section. Sewage disposal facilities requiring soil absorption systems may be prohibited where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. To this end, the Council, upon recommendation of the Commission, shall require that the subdivider note on the face of the Plat that soil absorption fields are prohibited in designated areas

c. Reclaimed Water Systems for Reuse of Treated Wastewater.

1. Any proposal for sewage collection, treatment and disposal that includes reclaimed water reuse shall meet the minimum criteria of the Texas Administrative Code (TAC).
2. Any proposal for on-site sewage facilities that includes provisions for reclaimed water reuse shall meet the minimum criteria of the Texas Administrative Code (TAC).

d. The disposal of sludge from water treatment and wastewater treatment facilities shall meet the criteria of the 30 Texas Administrative Code (TAC).

e. The subdivider shall provide the following setbacks for all lots within a subdivision, notwithstanding the separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or potable water supplies: a minimum of ten feet from streets and other public rights-of-way and a minimum of five feet from adjacent property lines.

(b) *Submission Contents*

(1) Final Engineering Report. The Final Plat shall be accompanied by an engineering report regarding the availability and methodology of providing wastewater treatment service prepared meeting the requirements of the SDM, and bearing the signed and dated seal of a professional engineer registered in the state of Texas.

(2) On-Site Sewerage Facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by the TAC, including

the site evaluation described by the TAC, requirements and all other information required by applicable OSSF regulations.

(3) Public Water Systems. Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement with the retail public utility on the Retail Public Utility Agreement Form available at the City. It must provide that the retail public utility has or will have prior to development the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty years and that the subdivider has provided for the payment of costs or fees for the connection of each individual lot to the public water system, including water meters, water acquisition fees, or other necessary expenses required by the retail public utility. Before Final Plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project, which may include the TCEQ and the health in addition to the responsible departments of the city. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that shall include comments regarding the long-term (thirty years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

(4) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a certificate of convenience and necessity ("CCN") from the TCEQ and include evidence of the CCN issuance with the Plat. Before Final Plat submission, an acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty years must be provided.

(5) Nonpublic Water Systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 22.3.2(a)(3) Where drinking water is to be supplied to a subdivision from a public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in the Texas Administrative Code (TAC). The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to Section 22.3.2(a)(3) Where drinking water is to be supplied to a subdivision from a public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in the Texas Administrative Code (TAC). does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the County at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement confirming the availability of groundwater supplies to serve the fully developed subdivision over the next thirty years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.

(6) Organized Sewerage Facilities. Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish a contractual agreement with the retail public utility on the Retail Public Utility Agreement Form available at the City. It must provide that the retail public utility has or will have prior to development the ability to treat the total flow anticipated from the ultimate development and that the

subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is immediately available to each lot. Before Final Plat approval, an appropriate permit to dispose of wastes shall have been obtained from the TCEQ, plans, and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

(7) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility, and obtain a CCN from the TCEQ. Before Final Plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the TCEQ and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

(c) *Prerequisites to Approval*

(1) Since State law requires action on a plat within 30-days of a determination of completeness, the City shall, in accordance with these Regulations, approve, deny or approve subject to conditions a final plat in the ETJ unless a Waiver of Right to 30-day action is provided by the developer. The conditions may include a requirement that County or utility approvals be obtained.

(2) The subdivider shall provide evidence that the plans and specifications for construction including any change orders filed with the appropriate authorities have been approved in accordance with the criteria established within this Section and the approval from the TCEQ.

(3) The subdivider shall provide evidence that the subdivision application has received approval from the Shenandoah authorized local health agent or department with jurisdiction in accordance with the Texas Administrative Code (TAC) regarding On-site Sewage Facilities, and the Sewage Facility Order of Montgomery County, Texas, as applicable.

(4) Additional Information. The City may, at its option, require additional information necessary to determine the adequacy of proposed water and wastewater improvements as part of the Plat approval process. Such information may include, but not be limited to:

a. Layout of proposed street and drainage work meeting County and City standards as applicable;

b. Legal description of the property;

c. Existing area features;

d. Topography;

e. Flood plains;

f. Description of existing easements;

g. Layout of other utilities;

h. Notation of deed restrictions;

i. Public use areas; or

j. Proposed area features.

(d) *Scope of Standards*

All Plats for residential developments and manufactured home parks shall comply with the minimum standards of this section. Subdivisions are presumed to be residential developments unless the land is restricted to non-residential uses on the Final Plat and on all deeds and contracts for deeds, or by restrictive covenants recorded in the office of the County clerk with the Final Plat.

22.3.3 *Lot Requirements -Extra-Territorial Jurisdiction*

(a) *Residential Subdivision Lot Sizes*

(1) In a subdivision in the ETJ where public water and public sewers are provided and on-site ponding is not used, the minimum lot areas shall be nine thousand square feet or as approved by the County of Montgomery, provided a minimum lot width of fifty feet and a minimum lot depth of ninety feet shall be provided.

(2) In a subdivision in the ETJ where public water and public sewers are provided, and on-site ponding is used, the minimum lot areas shall be ten thousand square feet with a minimum lot width of at least one-third the lot depth.

(3) Subdivisions in the ETJ served by a public water system, but utilizing individual methods of sewage disposal shall provide for lots of at least one acre. In calculating lot or tract sizes, access easements or rights-of-way adjacent to or through such lots shall not be used to satisfy the one-half acre requirement.

(4) Subdivisions in the ETJ utilizing individual water supply systems, individual methods of sewage disposal shall provide for lots of at least two acre. In calculating lot or tract sizes, access easements or rights-of-way adjacent to or through such lots shall not be used to satisfy the one-acre requirement.

(5) An exception to the minimum lot size requirements in the ETJ of this section may be granted by the Council, upon recommendation of the Commission, upon approval in advance by the TCEQ and the appropriate health official of a sewage disposal plan for on-site sewage disposal prepared by an engineer or sanitarian registered in the State of Texas.

(6) No more than one single-family detached dwelling shall be located on each subdivision lot in the ETJ. A notation of this restriction shall be placed on the face of the recording Plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the ETJ subdivision. Where otherwise authorized, proposals that include multifamily residential structures shall include adequate, detailed planning materials required by the city for determination of proper water and wastewater utility type and design.

(b) *Manufactured Home Park Space Sizes*

(1) The minimum lot area for a manufactured home park in the Shenandoah ETJ where public water and public sewers are provided shall be thirty thousand square feet with a minimum lot width of one hundred feet and a minimum lot depth of three hundred feet. In a manufactured home park where individual manufactured spaces are for lease, the minimum manufactured home space area shall be four thousand five hundred square feet with an average space width of forty-five feet and a minimum space depth of one hundred feet.

(2) The minimum lot requirements for manufactured homes on individually owned lots in subdivisions shall meet the requirements for a single-family lot in Section 2.11.3(a) Area Regulations and Standards.

(3) Parks for manufactured homes served by a public water system, but utilizing individual

methods of sewage disposal, shall provide a minimum one-half acre for each manufactured home space. In calculating the minimum manufactured home space area, access easements or rights-of-way adjacent to or through such manufactured home space shall not be used to satisfy the one-half acre requirement.

(4) Parks serving manufactured homes utilizing individual water supply systems and individual methods of sewage disposal shall provide a minimum one acre for each manufactured home space. In calculating the minimum manufactured home space area, access easements or rights-of-way adjacent to or through such manufactured home space shall not be used to satisfy the one-acre requirement.

(5) The space size requirements of this section may be modified by the Council, upon recommendation of the Commission, upon approval in advance by the TCEQ and authorized local health agent or department with jurisdiction of a sewage disposal plan for on-site sewage disposal prepared by an engineer or sanitarian. The design shall show proposed well locations within a one hundred fifty foot radius (sanitary control easement) around the well in which no subsurface sewage system may be constructed; except that a watertight sewage unit or lined evapotranspiration bed with leak detection capability may be placed closer to the water well than one hundred fifty feet. In no instance shall the area available for the on-site sewage system be less than two times the design area. The on-site sewage system shall be designed in accordance with the requirements of this Section. A finding under this subsection shall only be made upon proof that the on-site sewage system can be operated without causing pollution, a nuisance, or a threat or harm to an existing or proposed water supply system. When a property abuts any public street or alley in which there is a public sewer within three hundred feet from the closest point of the property, and when the on-site sewage system causes pollution, a nuisance, or a threat or harm to an existing or proposed water supply system as determined by the TCEQ and/or the authorized local health agent or department with jurisdiction, the property shall be required to connect to the public sewer.

(6) No more than one manufactured home shall be located on each manufactured home space in a manufactured home park. A notation of this restriction shall be placed on the face of the Final Plat of the subdivision.

(c) *Building Lines*

Building Lines. Front building lines shall be shown for all lots on all Plats submitted for land within the City's ETJ, and shall be as follows:

(1) The minimum building setback from lot boundaries adjacent to street rights-of-way shall be as follows in subsection "a" below, except as specified in subsection "b."

Setback from boundary adjacent to freeway (without frontage road in place): Forty feet (40').

Setback from boundary adjacent to freeway (with frontage road in place): Thirty feet (30').

Setback from boundary adjacent to arterial or collector street: Thirty feet (30').

Setback from boundary adjacent to a local street: Twenty-five feet (25').

(2) For new lots created by re-subdivision of land originally subdivided before 1985, the minimum building setback from street-side boundaries shall be the same as that indicated on the most previously recorded Plat or Replat of the particular lot(s) under consideration. In all cases, however, there shall be required a front yard of not less than twenty feet (20') and an exterior side yard of not less than fifteen feet (15'), where no

building setback lines are represented on a previously recorded Plat or Replat.

22.3.4 *Other Infrastructure Requirements in the ETJ*

(a) *Parks*

Subdivisions located within the ETJ of Shenandoah shall meet the park requirements of the City contained within Section 22.12 Parks and Open Space. Any land conveyed to the City for future park purposes shall be identified on the plat as a legal lot with lot number. The developer shall provide to the City a warranty deed, approved by the City Attorney's office, conveying the property to the City for park purposes. Land acquired by the city for park purposes under the provisions of this section will not be maintained or improved by the County. A sign with city contact information shall be placed upon the site noting that the lot is owned and maintained by the City of Shenandoah. Upon acceptance by the City, the City shall have the responsibility to maintain the parkland, facilities and any improvements provided by the dedication or subsequently made to the park in accordance with Section 22.12 Parks and Open Space.

(b) *Street Lighting*

Subdivisions within the ETJ of Shenandoah shall make provisions for street lighting in accordance with the requirements of the County.

22.3.5 *Deferred Construction of Improvements in the ETJ*

In order to not create disincentives to development within the City Limits of Shenandoah and to avoid future expenses for the taxpayers of the City to bring newly annexed, developed areas up to city standards, the City will require, where possible, the actual infrastructure required by these Regulations to be installed or constructed. Where such improvements cannot be constructed at the time of plat approval, the City may require cash escrow to offset the future expense in accordance with Section 21.8 Construction Plans and Management. If the Director of Community Development, or designee, determines that an improvement may not be constructed within 10 years, it may waive the requirement for cash escrow for such improvements.

22.4 Water

22.4.1 *Water Extension and Installation*

(a) *Water Required for Public Safety*

All lots, tracts or parcels on which development is proposed shall be connected to a public water system that has capacity to provide water for domestic use and emergency purposes, including adequate fire protection.

(b) *Responsibility*

(1) Within the corporate limits and the extraterritorial jurisdiction (ETJ) the subdivider shall make application to the City for water service prior to filing an application for subdivision approval. The City shall act upon the water application within sixty days of the receipt of the completed application.

(2) Within the corporate limits, if the City determines that public water service can be provided to the subdivision within twelve months from the date of its action on the water application, the subdivider shall provide water service through the public water system. If the City determines that service cannot be provided to the subdivision within 12 months, then the development shall be considered to not have adequate facilities under Section 22.1.1 General Policy until such time as service can be provided or the developer makes arrangement for such service.

(3) The subdivider shall install and pay for all water extensions and associated facilities, including fire hydrants, in accordance with all standards required by this Section of the Subdivision Ordinance and all other City ordinances, except to the extent that Section 22.2 Dedication, Construction Requirements and City Participation and Section 22.4 Water provide for refunding the cost of certain water mains larger than eight inches (8") in diameter.

(4) All such extensions and facilities shall be installed within a public right-of-way or easement designated for utility access.

(5) Upon certification that municipal water extensions and associated facilities have been completed in conformance with applicable standards and specifications, such extensions and facilities shall be dedicated to and accepted by the City.

(c) *Extension and Related Expense*

Where the City's water distribution system is not planned to be extended, all necessary water facilities shall be provided by and at the expense of the subdivider.

22.4.2 *The City System*

(a) *Installation of Water Facilities*

Where water is to be provided through the City system, the developer shall install adequate water facilities, including fire hydrants, in accordance with the current Rules and Regulations for Public Water Systems of the TCEQ, the Rules and Regulations of the City and the firefighting standards of the Texas Board of Insurance.

(b) *Facilities for Health and Safety Emergencies; Alternative Water Sources*

All water facilities connected to the City water system shall be capable of providing water for health and emergency purposes, including fire protection. Water supply facilities shall be in accordance with City regulations and specifications. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:

(1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the TCEQ.

(2) Design and construction of water service from the City shall be in accordance with the standards in the City's SDM.

(3) Design and construction of a fire protection and suppression system shall be in accordance with the standards of the City, the SDM, the City's adopted Fire Code and be approved by the Director of Community Development, or designee, and the Fire Department.

22.4.3 *Location; Performance Guarantees*

(a) *Construction Plans*

The location of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, indicating all improvements proposed to be served, shall be shown on the Construction Plans and shall be in accordance with the Rules and Regulations of the City of Shenandoah, if applicable.

(b) *Cost*

The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees furnished by the developer.

(c) *Location of Lines*

Extension of water and wastewater lines shall be made along the entire frontage of the Plat adjacent to a street or thoroughfare.

(1) If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions.

(2) If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Community Development, or designee, may waive the requirement for construction of utility lines adjacent to or extending utility lines beyond the subdivision at the time of Final Plat approval and prior to construction of the subdivision.

(d) *Compliance with Other Regulations*

Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ, and with any other applicable State rules and regulations, whichever are the most stringent requirement.

22.4.4 *Individual Wells*

(a) *Within the Corporate City Limits*

Individual wells within the Corporate City Limits of Shenandoah shall not be allowed. If, in a unique case, an exception is granted by the Council, upon recommendation of Commission and the local Health Department to utilize individual wells, such individual well shall meet all requirements for individual wells contained in Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards.

22.4.5 *Reserved*

22.5 Wastewater

22.5.1 *Wastewater Extension and Installation*

(a) *Wastewater Collection and Treatment Required for Public Safety*

All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment. The Director of Community Development, or designee, shall be responsible for determining the approved means of wastewater collection and treatment. The Director of Community Development, or designee, may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Subdivisions either in the ETJ or that have recently been annexed and are not served by the City shall meet the same requirements but be subject to approval by the Director of Community Development, or designee.

(b) *Responsibility*

(1) Within the corporate limits and the extraterritorial jurisdiction (ETJ) the subdivider shall make application to the City for wastewater collection service prior to filing an application for subdivision approval. The City shall act upon the wastewater application within sixty days of the receipt of the completed application.

(2) Within the corporate limits, the subdivider shall provide wastewater service through the public wastewater system.

(3) Within the corporate limits, if the City determines that public wastewater service can be

provided to the subdivision within twelve months from the date of its action on the wastewater application, the subdivider shall provide wastewater service through the public wastewater collection system. If the City determines that service cannot be provided to the subdivision within 12 months, then the development shall be considered to not have adequate facilities under Section 22.1.1 General Policy until such time as service can be provided or the developer makes arrangement for such service.

(4) Within the extraterritorial jurisdiction, if the City determines that public wastewater service cannot be provided within twelve months from the date of its action on the water application, the Council may approve an exception to allow a subdivider to provide wastewater service through a private wastewater collection system subject to the requirements of Section 22.3 Extraterritorial Jurisdiction (ETJ) Standards.

(5) The subdivider shall install and pay for all municipal wastewater extensions and associated facilities in accordance with all standards required by this Section of the Subdivision Ordinance and all other City ordinances, rules and regulations except to the extent that Section 22.2.2 Property Owner's Obligation and Section 22.4 Water provides for refunding the cost of certain wastewater mains larger than twelve inches (12") in diameter.

(6) All such lines and facilities shall be installed within a public right-of-way or easement designated for utility access.

(7) Upon certification that municipal wastewater extensions and associated facilities have been completed in accordance with applicable standards and specifications, such extensions and facilities shall be dedicated to the City.

22.5.2 *The City Wastewater System*

(a) *Extension*

Extension of the City wastewater system shall be required for any subdivision within City limits. Extension of municipal wastewater lines shall be done in accordance with adopted ordinances, rules, regulations and policies of the City.

(b) *Design Requirements*

Where wastewater is to be provided through a centralized system, the developer shall install adequate facilities, subject to the standards and specifications of the City and state design criteria for wastewater systems.

(c) *Existing System*

Where insufficient capacity exists downstream of a proposed connection, the replacement and upsizing of the existing main is required of the developer. The installation of a parallel main is prohibited, unless approved by the Director of Community Development, or designee. Installation for lines in excess of eight (8) inches may be eligible for reimbursement in accordance with Section 22.2 Dedication, Construction Requirements and City Participation.

22.5.3 *Reserved*

22.5.4 *Location; Performance Guarantees*

(a) *Construction Plans*

The location of all wastewater improvements and the boundary lines of special districts, private systems and certified areas, indicating all improvements proposed to be served, shall be shown on the Construction Plans and be in accordance with the Rules and Regulations of the City.

(b) *Cost*

The cost of installing all wastewater improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees furnished by the developer.

22.5.5 *Reserved*

22.6 Utilities Generally

22.6.1 *General Provisions*

(a) *Underground Requirements*

(1) Utilities shall include water, wastewater, natural gas, electric, cable television, telephone and other public utilities.

(2) All utilities shall be located underground in any new residential subdivision.

(3) Within non-residential subdivisions, utilities shall be located underground along all street frontages or whenever adjacent to existing residential uses or residentially zoned property, unless such adjacent property has overhead utility lines.

(4) Underground utilities may be buried in dedicated easements or in rights-of-way.

(b) *Placement*

(1) The placement and separation of the various utilities within an easement or right-of-way shall conform to the Shenandoah Design Manual (SDM). The placement and separation of water and wastewater utilities shall also conform to the requirements of the Texas Natural Resources Conservation Commission (TCEQ).

(2) If a water or wastewater main is to be placed in a shared easement, the location of such main in relation to the other utilities shall be coordinated with the affected utility agencies.

22.6.2 *Utility Connection, Participation and Extension Policies*

(a) *Connections to the City's Water and Wastewater Systems*

All connections to the City's water and wastewater systems shall be in accordance with City Rules and Regulations. A property may not be served or connected with water, wastewater, electricity, gas or other utility service unless the owner of the property has properly platted it in accordance with these Regulations and has been issued or otherwise holds a certificate of compliance applicable to the land to be served or connected as provided in Section 24.1.14 Certification Regarding Compliance with Plat Requirements. For purposes of this section, utility service and connection shall not include the laying of utility facilities, or the installation and use of meters or hook-ups required for construction of any required subdivision improvements or buildings. Provided, however, that a property may be served or connected with water, wastewater, electricity, gas or other utility service regardless of whether an entity is presented with or holds a certificate of compliance when the Community Development Director or designee issues a certificate stating that:

(1) The property, or any portion thereof, was first served or connected by a public utility that provides water, wastewater, electricity, gas or other utility service before September 1, 1987; or

(2) The land is located in a subdivision in which utility service has been previously provided; or

(3) Construction of a residence on the property, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 1987; and

(4) Properties in the ETJ have agreed to be annexed.

(5) Exception. An exception may be granted in accordance with Section 25.4 Petition for Waivers or Exceptions when the Council determines, following a recommendation by staff and/or the County, that a threat to public health and safety may result from an existing water supply system or on-site sewage system on property which has been privately developed without a subdivision as required by this title; and where the strict application of these regulations cannot be observed due to the existing conditions of the property. For purposes of this subsection, property which has been privately developed shall include any portion of a tract or parcel of land on which a structure has been permanently located on the ground, or has been attached to something having a permanent location on the ground, and which has been continuously occupied for any use.

22.6.3 *Utility Location Policies*

(a) *Placement*

It is in the City's best interest to coordinate and regulate the placement of public and private utilities in the public right-of-way and in easements on private property. Such regulations and coordination shall be managed under the general standards of this Section 22.6 Utilities Generally.

(b) *Standards*

(1) All utilities shall be installed in accordance with location criteria available in the office of the Director of Community Development, or designee.

(2) In those instances where lots within a subdivision are not adjacent to an alley, except as specified in subsection (3) below, all utility extensions to serve such lots shall be located in the street right-of-way. All such utilities shall be installed in accordance with location criteria available in the office of the Director of Community Development, or designee, or as published in the SDM.

(3) In order to accommodate the multiple public and franchise utilities within the public street right-of-way, there shall be a minimum of five feet (5') of unpaved right-of-way and/or utility easement outside of and in addition to the right-of-way covered by street paving, sidewalk and curb-and-gutter in accordance with the SDM and/or the Shenandoah Thoroughfare Plan street cross sections and requirements. This unpaved area may be between the curb and sidewalk or on the outside of the sidewalk. The minimum roadway cross sections in Section 22.7 Roadways have been designed with a minimum of eight or more feet (8') behind the curb, and sufficient right-of-way to meet this requirement in accordance with the SDM and/or the Shenandoah Thoroughfare Plan shall be dedicated to accommodate over-width sidewalks, bikeways, or any surface improvement.

(4) Easements on private property shall only be used in the following instances and under conditions specified therein:

a. Where required by location criteria available in the office of the Director of Community Development, or designee, or as published in the SDM and/or the Shenandoah Thoroughfare Plan;

b. Where special developments (i.e. cluster subdivisions and planned development districts) occur;

c. Where private streets are platted lacking sufficient parkway to install required utilities and, even then, such easements as needed shall be provided adjacent

and parallel to the street; and,

d. Where unusual circumstances prevent use of the public right-of-way.

(5) The subdivider shall be responsible for insuring that utility providers are given a coordinated schedule for the installation of respective facilities, including sufficient notice of desired installation dates. Prior to the start of curb and pavement installation, the subdivider shall obtain a written release from each utility provider indicating that required utility installation is complete. Subdividers shall provide such release to the City.

(6) The subdivider shall have the option of participating in a joint trench for electric and communication utilities in accordance with the SDM.

(7) If the subdivider chooses not to provide a common trench for electric and communication utilities in conformance with subsection (5) above, required facilities shall be installed in separate trenches located in accordance with the SDM. The street right-of-way necessary to accommodate separate trenches shall, however, be wider than that necessary if a common trench is provided. (See location criteria available in the office of the Director of Community Development, or designee, or in the SDM.) Utility companies shall provide their own ditch and backfill in accordance with the SDM and all other standards.

(8) In the event that the electric utility is unable to meet subdivider's installation schedule, the utility shall furnish conduit for portions beneath street which developer will install complete with pull wire. In the event that either telephone or cable television utilities are unable to meet subdivider's installation schedule, the subdivider shall proceed with required installation of two-inch (2") conduit for portions beneath street, as required by Subdivision Regulations and the SDM of the City of Shenandoah. In either case, electric and communication utilities shall provide release for curb and pavement installation following completion of above requirements by subdivider.

(9) The subdivider shall be responsible for providing the Director of Community Development, or designee, with adequate information on the Final Construction Plans to show the exact locations of all utilities installed. The Community Development Director or designee will distribute copies to appropriate City Departments (and utility providers). No public facilities or improvements shall be accepted for dedication until such "as built" plans or record drawings, as required herein as part of the Final Plat, have been submitted accordingly.

(10) In those instances where existing utilities in easements on private property need to be replaced, such utilities shall be relocated within nearby public rights-of-way in accordance with the location criteria available in the office of the Director of Community Development, or designee, wherever feasible.

(11) There shall be sufficient right-of-way along local and collector streets for utilities and solid waste pick-up, except where alleys or other easements allow these services to be located off-street.

(12) There shall be sufficient right-of-way such that sidewalks and related pedestrian activity is not impeded by the location of utilities, including solid waste pick-up, fire hydrants, and utility poles. If such right-of-way is not sufficient, then the developer and/or the respective utility shall be responsible for obtaining additional easements or right-of-way.

(13) In those instances where unusual circumstances arise, not specifically covered by foregoing provisions and/or attached location criteria, the general intent of this Section shall be used to guide the placement of utility facilities.

(14) Conduit, to accommodate telephone and television service lines extending from closures on one (1) side of the street, shall be provided by and at the expense of the subdivider. All such conduit shall be installed at all possible future locations and in conformance with all standards required by this Section and the SDM.

22.6.4 *Utility Easements on Platted Lots*

(a) *Side of Platted Lots*

If one or more utilities must be located at the side of platted lots, an easement shall be designated as prescribed below:

(1) If the easement is for one utility only (excluding water and wastewater easements), then the easement shall be a minimum of six feet (6') in width and shall be located entirely within the boundaries of one lot.

(2) If the easement is for two or more utilities or for a water or wastewater line, then the easement shall be a minimum of fifteen feet (15') in width and shall be split equally between two adjoining lots in the subdivision where the subdivider owns both adjoining lots.

(3) Easements shall be considered a part of the lot area, for purposes of minimum lot size requirements.

(4) Easements shall not be placed at locations that will interfere with placement of buildings on lots.

(5) The property owner whose property is subject to such easement shall be responsible for its maintenance and shall keep it free and clear of any permanent building or structure. No building permits shall be issued to place any building or other improvement on, over, or within such easement, in whole or part.

(6) The owner of the property upon which the utility easement is located may fence across the easement, providing that by placing such fencing across the easement or by allowing such fence to remain across the easement, the owner shall be conclusively presumed to have consented to permit reasonable access to the utility easement and any utilities therein by any affected utility company over other unfenced portions of the landowner's property.

22.7 Roadways

22.7.1 *Adequacy of Streets and Thoroughfares*

(a) *Responsibility for Adequacy of Streets and Thoroughfares*

The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities. Additional right of way may be required at some street intersections to accommodate utilities, sidewalks, traffic control devices and/or sight distances.

(b) *General Adequacy Policy*

Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular, bicycle and pedestrian traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's Thoroughfare Plan, road classification system,

Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

(c) *Road Network Adequacy and Traffic Impact Analysis*

New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of two hundred (200) or more dwelling units, or for developments generating two thousand (2,000) or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the City's adopted Thoroughfare Plan, shall be demonstrated by preparation and submission, prior to or along with Land Study or the Preliminary Plat application, of a Traffic Impact Analysis prepared in accordance with Section 22.10 Traffic Impact Analysis which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property.

(d) *Phasing*

(1) In the event the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the Director of Community Development, or designee, may require a demonstration of adequacy pursuant to these Regulations for additional phases or portions of the property as a condition of approval for the proposed Preliminary Plat.

22.7.2 *Subdivider Responsibility*

(a) *Safety, Convenience, Functionality*

Proposed roads serving new development shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall conform to the applicable master thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New developments shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation as determined by staff and/or a Traffic Impact Analysis. Each development shall have adequate access to the thoroughfare network.

(b) *Streets, Generally*

All streets, including right-of-way, street paving, curb and gutter improvements, sidewalks, pathways and bikeways shall be provided by and at the expense of the subdivider, subject to the rough proportionality provisions of these Regulations, to Section 22.2 Dedication, Construction Requirements and City Participation and to Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement of these Regulations. The subdivider shall install streets at all locations and in accordance with all standards required by this Section of the Subdivision Ordinance, the SDM and the Shenandoah Thoroughfare Plan. The developer's share for major bridges and similar region-serving drainage structures and for railroad crossings (including the appurtenant roadway paving, sidewalks/pedestrian pathways, abutments, safety railings and crossarms, median areas, etc.) shall be in accordance with the City of Shenandoah's policies for the construction of such facilities. In no case, however, shall the developer be responsible for more than their proportional share as determined by a traffic impact analysis.

(1) The subdivider shall pay the cost of all such improvements, except as follows:

a. Arterial Streets and Collectors Within Subdivision Boundaries. If the right-of-way for any arterial or collector street lies entirely within the boundaries of any subdivision or portion thereof, the City shall have the option of designing the arterial or collector and/or of being responsible for awarding the contract for construction of required improvements, or allowing the subdivider to arrange for the construction of such arterial provided developer/city participation is in

accordance with state bidding statutes. The subdivider shall deposit his share of construction costs with the City prior to award of the contract. The subdivider's share shall include the cost of pavement, curb and gutter, and sidewalks for a street up to forty-one feet (41') wide or the roughly proportional share as determined by a TIA.

b. Improving State or Federally Owned Right-of-Way. If the right-of-way for any thoroughfare owned by the State or Federal government lies within or adjacent to the subdivision, the subdivider shall not be required to pave any portion of it. The subdivider shall, however, arrange to construct or contribute to the City an amount of money equal to that necessary to furnish curb and gutter, sidewalk or bike path improvements to any State or Federally owned arterial lying within or adjacent to the subdivision, if such improvements do not already exist but are determined to be necessary within the next 10 years. The developer may also be required, based on the TIA, to contribute their rough proportional share of additional frontage road lanes, acceleration or deceleration lanes or bus turnouts. Funds shall be deposited and disposed of in a fashion similar to that described in the preceding paragraph (1)b of this subsection, concerning improvements to arterial streets bordering subdivision boundaries.

(2) If the TIA indicates that the developer has a rough proportional share of additional roadway or traffic mitigation, they may be required to install or pay for such improvements including turn bays, acceleration or deceleration lanes or traffic signal improvements.

(c) *Improvement of the Proportional Share of an Adjacent Substandard (Perimeter) Road*

When an area within a proposed Plat, whether residential or non-residential, abuts on one or both sides of an existing substandard road or utility facility, or a planned or future road, drainage or utility facility as shown on the City's Thoroughfare Plan and/or adopted plans related to water and wastewater, the developer shall be required to improve the development's proportional share of the road (including appurtenant sidewalks, bike lanes, barrier-free ramps, storm drainage facilities, screening and landscaping, medians and landscaping, median openings, left turn lanes, and water quality or erosion controls), the traffic mitigation (including signalization, medians, access and deceleration lanes) and utility facilities, to bring the facilities to City standards, or to replace them with standard City road, traffic mitigation or utility facilities as determined by a traffic or other public facilities impact study. The study, if required, shall be at no cost to the City.

(1) For boundary streets that exist to some degree, for example, by previous partial dedication or prescriptive easement, the following standards shall apply.

a. For all classifications of such streets, the subdivider must dedicate up to one-half the additional right-of-way necessary to comprise the full street width required, not to exceed 60 feet. In the case of subdivisions that border both sides of a perimeter street, the subdivider must dedicate up to 60 feet in right-of-way. Dedication of more than half this additional increment may be required, in some instances, to maximize use of existing roadway and/or ensure a consistent street alignment with a minimum of undesirable curvature.

(2) The developer's share of improvements to a substandard perimeter road is a maximum of twenty and a half feet (20'-6") of pavement plus the adjacent curb or the equivalent of one-half of a collector street, along the entire front footage of the subdivision, unless the traffic impact study determines that the proportional share of the development is

more, in which case that shall become the minimum share of improvements.

(3) The maximum developer's share of improvements to a roadway when a subdivision is to be located on both sides of an existing roadway is the full width of a primary collector roadway, which is forty-one feet (41') of pavement, plus the adjacent curbs, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision

(4) If the subdivider widens existing pavement, the existing pavement shall be cut back a distance required by the Director of Community Development, or designee, to assure adequate sub-base and pavement joint before additional paving material is laid on top.

(5) The City shall participate in the costs of perimeter roads in excess of the developer's proportional share obligations and where such costs are not borne by another public entity, and in cases where the application of the standards in this Section result in a disproportional burden on the development, as determined in accordance by the Council in accordance with Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement. If Council determines funds are not adequate, the City may choose to defer the improvement allowing the developer to provide for their share of the improvement at a later date in accordance with these Regulations or the City may allow the developer to install just their portion of the improvement, provided it is adequate for minimum traffic circulation and fire protection. The City may also choose to sign a Subdivision Agreement and/or a Subdivision Participation Agreement in accordance with Section 21.8.7 Subdivision and Subdivision Participation Agreements with the developer, if the developer proposes to construct the entire perimeter facility and be reimbursed the City's share over time with interest.

(6) The City shall have the option of designing the perimeter roadway including an arterial or collector and/or of being responsible for awarding the contract for construction of required improvements, or allowing the subdivider to arrange for the construction of such arterial provided developer/city participation is in accordance with state bidding statutes. The subdivider shall deposit his share of construction costs with the City prior to award of the contract. When the Council resolves to design and improve a bounding arterial or collector street to standards appropriate to its use, then the Assessment Fund or similar funds shall be utilized in payment of necessary construction costs.

(7) Existing Boundary Streets for Small Subdivisions. If the right-of-way of an existing or proposed street forms part of the boundary for a subdivision meeting all of the following conditions, the subdivider shall have the option to make the contribution to the City for the cost of required street improvements, as determined by the Director of Community Development, through an extended payout arrangement consistent with the paving program.

a. The subdivision includes no more than two (2) lots under a single ownership;

b. The total street frontage of the subdivision is no more than two hundred feet (200');

c. Each lot is used for farming/ranching purposes and/or has one (1) residence but no more than one (1) residence with accessory structures;

d. The street(s) for which improvements are necessary are not listed in the Capital Improvements Program in effect at the time of the subdivision.

(d) *Alleys*

(1) Where provided, alleys shall be installed and improved in accordance with all standards required by this Section and the SDM. Alleys shall be provided by and at the expense of the subdivider.

22.7.3 *Street/Thoroughfare Exceptions, Escrow Policies and Procedures*

(a) *Exceptions*

In lieu of actual street improvement, the subdivider may request the following exceptions, subject to Director of Community Development, or designee, Council, upon recommendation of the and Commission approval:

(1) The subdivider shall contribute to the City an amount of money necessary to complete all paving, curbing and/or traffic improvements required. These funds shall be held, and eventually disposed of, in the manner described within this Section, or

(2) The City may participate in the road and allow the subdivider to construct such street meeting City standards and designating a time frame for completion, or

(3) If the subdivision includes no more than two lots, then the subdivider may execute a Subdivision Agreement prior to development which runs with the ownership of the land and which obligates the landowner at the time of development to place into a City of Shenandoah cash escrow fund the amount of money necessary to cover the developer's proportional share of the cost of all required public street improvements. The Subdivision Agreement shall be on a City-designated form, signed by the property owner, notarized, and filed with the official property records of the County in which the property is located.

(b) *Request for Escrow*

Whenever this Subdivision Ordinance requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may petition the Council to construct the improvement at a later time, in exchange for deposit of escrow as established in Subsection (c) below, if unusual circumstances exist, such as a timing issue due to pending improvements by another agency such as TXDOT or the applicable county, that would present undue hardships or that would impede public infrastructure coordination or timing. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, the Director of Community Development, or designee, may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of the affected roadways. The Director of Community Development, or designee, shall review the particular circumstances involved and may require a Traffic Impact Analysis with both roadway and traffic mitigation recommendations. The Director of Community Development, or designee, shall determine whether or not a provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare.

(c) *Escrow Deposit with the City*

Whenever the Council agrees to accept escrow deposits in lieu of construction by the property owner, the property owner shall deposit in escrow with the City an amount equal to the owner's share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and the interest on such funds or an appropriate (and realistic) inflation factor will be used to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. This amount shall be reviewed and approved by the Director of Community Development, and shall be paid prior to recording of the Final Plat. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

(1) Determination of Escrow Amount: The amount of the escrow shall be determined by using comparable "turnkey" costs for construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). The determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the Director of Community Development, or designee.

(2) Termination of Escrow: Escrows, or portions of escrowed amounts, which have been placed with the City under this section and which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner or applicant who originally paid the escrow amount, along with one-half (1/2) of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot(s) or if application for a new building permit(s) is made.

(3) Refund: If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

(4) Interest Limitation: If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half (1/2) of its accrued interest.

22.7.4 *Thoroughfare and Alley Abandonment Policy*

(a) *General*

The abandonment of a thoroughfare or alley shall be achieved by the same manner in which the thoroughfare or alley was originally obtained. If such was originally dedicated to the City by a Plat approval, then a Replat shall be required for abandonment. If such was dedicated by a separate instrument, then a Replat may not be required.

(b) *Quit Claim Deed*

A Quit Claim deed that eliminates any and all future claims for City responsibility for the abandoned thoroughfare or alley may be required by the Council as part of the approval of the document (i.e., Plat or separate instrument) that achieves abandonment.

22.7.5 *General Requirements*

(a) *Approach Roads and Access*

All subdivisions with lots having more than sixty (60) dwelling units must have at least two (2) points of vehicular access (primarily for emergency vehicles), and must be connected with improved roadways to the City's improved thoroughfare and street system by one or more approach roads of the dimensions and standards hereinafter set forth.

(1) Requirements for dedication of right-of-way and improvement of approach roads, signalization, median breaks, additional lanes and other traffic mitigation or safety improvements may be increased depending upon the size or density of the proposed

development, or if the need is demonstrated by Traffic Impact Analysis in accordance with Section 22.10 Traffic Impact Analysis.

(2) Points of vehicular access into subdivisions shall meet the requirements of the City's adopted Fire Code.

(3) The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning, or twenty-five feet (25'), whichever is greater, unless other provisions have been authorized through planned development approval. Each non-residential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or fifty feet (50'), whichever is greater, unless other provisions have been authorized through planned development approval.

(b) *Roadway Network Connectivity*

(1) All proposed developments are encouraged to have internal streets that connect with each other and sufficient external connections to the outside roadway network. Block lengths of less than 600 feet are preferable. Through streets are preferable to long cul-de-sacs (in excess of 300 feet). Increased connectivity decreases the travel distance and time of trips and encourages pedestrian and bicycle activity by making neighborhoods more "walkable." The Council, upon recommendation of the Commission and staff, may require a plat to provide more connectivity within and adjacent to the subdivision by increasing the number of connected streets and reducing the number of cul-de-sacs, even if it means a reduction in the number of lots.

(2) The Council, upon recommendation of the Commission, may grant exceptions to these requirements when it makes a finding that the subdivision in the context of surrounding development would equally serve the City's overall roadway network connectivity objectives, or the subdivision has connectivity features such as pedestrian trails and bikeways that enables it to achieve similar purposes.

(c) *Off-Site Improvements*

Where Traffic Impact Analysis demonstrates the need for the facilities, or where the City believes public safety is at risk, the property owner shall make improvements to off-site collector and arterial streets and intersections necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The City may participate in the costs of oversize improvements with the property owner as set out herein, and subject to the City's cost participation policies on oversized improvements.

(d) *Street Dedications*

(1) Dedication of Right-of-Way: The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan and as required by the SDM or by other valid development plans approved by the City.

(2) Construction Easements: Construction easements, in addition to rights-of-way, shall be required when adequate width for construction of streets and/or utilities is not available.

(e) *Street Construction*

All streets and thoroughfares shall be constructed and paved to City standards and within rights-of-way as required by the Thoroughfare Plan and this article, and in accordance with the SDM and other City standards, as may be from time to time amended or adopted.

(f) *Intersection Improvements and Traffic Control Devices*

Intersection improvements and traffic control devices shall be installed as warranted in accordance with the Traffic Impact Analysis required by Section 22.1 General Policy, or as may be required by the City for traffic safety and efficiency. Construction and design standards shall be in accordance with City standards and the SDM and/or the Shenandoah Thoroughfare Plan.

(g) *Phased Development*

Where a subdivision is proposed to be developed in phases, the applicant, in conjunction with submission of the Land Study or Preliminary Plat, shall provide a schedule of development.

(h) *Private Streets*

See Section 22.7.15 Private Streets.

22.7.6 *Street Standards*

(a) *SDM and/or the Shenandoah Thoroughfare Plan Standards Met*

In addition to the requirements of the City of Shenandoah Design Manual (SDM and/or the Shenandoah Thoroughfare Plan), the requirements of the street standards in this Section shall be met.

(b) *Arrangement of Streets and Conformance to the Thoroughfare Plan*

Except as provided in subsection (b)(1) below, the City's adopted Thoroughfare Plan shall be used as a guide for the type of roadway, the location of the roadway, and the areas that the roadway is intended to connect as part of the platting process.

(1) Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

a. Conform to any plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;

b. Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and

c. Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).

(c) *Discouragement of Through Traffic on Residential Streets*

Residential collector streets and local residential streets shall be laid out such that their use by "cut through" traffic will be discouraged, with the development of a hierarchical street system and such measures as circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions. The Director of Public Works or designee may recommend to the Commission that a plat be denied because of the potential for cut through traffic. The Commission may require that the street and lot layout be redesigned to discourage cut through traffic at the time of plat approval.

(d) *Projections and Related Requirements*

Where adjoining unsubdivided areas exist, the subdivision street arrangement shall make provision for projection of streets into such areas. Dead end streets shall otherwise be

prohibited, except where projections into unsubdivided land are necessary or where turnarounds are provided in accordance with Section 22.7.10 Dead-End Streets. Private streets shall not be allowed to project beyond the subdivision boundary, and therefore shall not be allowed to dead end at the subdivision boundary.

(e) *Transitions of Right-of-Way Width*

Wherever the right-of-way width of a residential local or collector street must transition to a greater or lesser width, the transition shall not occur within an intersection but within the street right-of-way so that the right-of-way shall be the same on both sides of the street intersection.

(f) *Subdivisions Abutting or Containing Arterial Streets*

Where a subdivision abuts or contains an existing or proposed arterial street, the Director of Community Development, or designee, may require marginal access streets, shared driveway access on non-residential lots, reverse or double-frontage lots (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. Single-family lots shall not directly access an existing or proposed arterial.

(g) *Configuration Shall Reduce Minimal Offsets*

Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening). Median openings and offsets should be analyzed in the Traffic Impact Analysis, and a determination made if developments sharing a median opening may cause additional traffic conflicts. An exception to sharing a median opening may be made if so determined.

(h) *Right-of-Way Widths*

Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections on the Thoroughfare Plan and in the City's SDM.

(i) *Names of Extensions of Existing Streets*

New streets that extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

(j) *Construction of Streets*

All streets shall be constructed in accordance with paving widths and specifications as set forth in the SDM and/or the Shenandoah Thoroughfare Plan of the City of Shenandoah at the time at which the Preliminary Plat application is officially submitted and deemed a complete application.

(k) *Street Grades and Horizontal Curves*

Minimum and maximum street grades and horizontal curves will conform to standards set forth in the SDM and/or the Shenandoah Thoroughfare Plan.

(l) *Street Signs*

Street signs shall be installed by the developer at all intersections within and abutting the subdivision. These signs shall be of a type approved by the City, and shall be installed according to City standards and in conformance with the Texas Manual on Uniform Traffic Control Devices.

(m) *Streetlights*

Streetlights shall be installed in accordance with the SDM by the developer at all intersections and at the turnarounds of cul-de-sacs, and shall have no greater distance than three hundred feet (300') between them within or abutting the subdivision. Non-residential developments fronting on or siding up to arterials or collectors shall also install streetlights at a spacing in accordance with the SDM. "Dark Sky" compliant streetlights shall be encouraged wherever possible.

(n) *Access Management*

Access management standards and requirements related to TXDOT roadways and City roadways shall be in accordance with these Regulations, the SDM and/or the Shenandoah Thoroughfare Plan, all other City and TXDOT regulations, and as determined by the Traffic Impact Analysis.

(o) *Screening Along Roadways*

Screening requirements for roadways shall be in accordance with the zoning districts and requirements outlined in the Zoning Ordinance.

(p) *Pedestrian Connectivity*

Pedestrian connectivity and access shall be provided between subdivisions, schools, cul-de-sacs (i.e., bulb-to-bulb access) and park areas. In cases where a subdivision is constructed in a location that is adjacent to another subdivision, pedestrian access shall be provided such that adjacent development can connect to such access at a later date, when development occurs. Gated subdivisions may be exempt from this requirement upon approval by the Council, upon recommendation of the Commission.

(q) *Conformance with the Comprehensive Plan*

Streets and the layout of streets shall be consistent with the adopted Comprehensive Plan, and specifically the Thoroughfare Plan, to the furthest extent possible.

(r) *Reserve Strips*

Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the Council, upon recommendation of the Commission.

22.7.7 *Intersections, Half-Streets*

(a) *Intersections*

Street intersections shall be situated at an angle of ninety degrees (90°), plus or minus fifteen degrees (15°) and shall maintain proper intersection visibility as determined by the latest edition of AASHTO's "A policy on Geometric Design of Highways and Streets".

(b) *Half Streets*

Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this Code and the Thoroughfare Plan, and where the Council, upon recommendation of the Commission, makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The Director of Community Development, or designee, may also find that it would be more practical, or cost effective, to delay construction of the other half or some portion thereof of a street until when the adjoining property is developed.

22.7.8 *Street Length*

(a) *Length of a Block or Street Segment*

The maximum length of any block or street segment (including a looped street) shall be sixteen

hundred feet (1,600') along arterial streets and 1,200 feet along other streets, except where topographic features or parcels of one half (1/2) acre or larger would justify an exception from this requirement and except for cul-de-sac streets, which shall adhere to other requirements herein. Measurements shall be from the centerline or center point of one intersection to the centerline or center point of the next. Blocks exceeding 600 feet that are not curvilinear in nature may be required by the Director of Community Development, or designee, to have traffic calming measures to reduce speeds.

(b) *Maximum Length of a Cul-De-Sac Street*

No cul de sac or subdivision served by one access point in any single-family multiple family, industrial, or commercial district shall exceed six hundred feet (600') in length or the length as shown in Table 22.7.9(a) whichever is less. No cul de sac in any single-family-zoning district shall be designed to serve more than twenty five (25) dwelling units thereby encouraging connectivity and walkability. For purposes of this paragraph, cul de sac length shall be measured along the centerline of the cul de sac from a point beginning at the intersection of the cul de sac street with the centerline of the street from which it extends to the center of the turnaround at the end of such cul de sac. (Also see Section 22.7.9 Cul-de-Sac Streets for cul-de-sac requirements.) In those situations where an exception must be allowed by the Council, upon recommendation of the Commission, to develop a parcel effectively landlocked with no other alternative than a cul-de-sac exceeding 600 feet, additional modifications may be required by the Fire Marshall's office including requiring intermediate turnarounds (eyebrows) to accommodate emergency vehicles being provided at a maximum distance of 600 feet.

(c) *Cross-Reference*

Also see Section 22.7.9 Cul-de-Sac Streets below for cul-de-sac requirements.

22.7.9 *Cul-de-Sac Streets*

(a) *Cul-De-Sac Streets*

Except where projecting into adjacent unsubdivided areas, any street having only one vehicular access to another street shall be terminated by a permanent turnaround. Standards for both the turnaround and its street approach are set forth within this Section 22.7.9 Cul-de-Sac Streets. Exceptions to these standards shall be discouraged due to firefighting and solid waste collection requirements. Any turnaround, either temporary or permanent, that does not meet these requirements shall be permanently signed for no parking.

(1) That portion of any street extending from an intersection to a turnaround shall be improved and rights-of-way platted with the minimal dimensions, as prescribed below.

Table 22.7.9(a)
Width for Cul-De-Sac streets for Certain Activities

Activity Served	Paving Width*	Right-of-Way Width	Additional Requirements
1-12 dwellings	28’	60’	300’ maximum length
13-25 dwellings	32’	60’	600’ maximum length - Single-family, duplex only**
Medical Use, College/University, and Non-Residential Zoning Districts (except as otherwise specified)	36’	60’	300’ maximum length
Heavy Commercial District and Industrial Districts	41’	60’	300’ maximum length

* Measured from the front of adjoining curbs
**Cul-de-sacs (dead end streets) serving triplex, quadraplex and higher density multi-family uses shall be discouraged. Exceptions may be granted by the Commission where no alternative exists and meeting the Heavy Commercial Standard.

(2) The turnaround portion of any cul-de-sac shall be improved, and rights-of-way platted, as prescribed below:

Table 22.7.9(b)
Width for Cul-De-Sac Turnarounds for Certain Activities

Activity Served	Paving Width*	Right-of-Way Width	Additional Requirements
Residential Zoning Districts, Medical Use, College/University, and Non-Residential Zoning Districts (except as otherwise specified)	80’ diameter’	110’ diameter or 100’ with7’ utility and sidewalk easement**	Shall be 10’ of ROW or ROW/Easement Combination behind curb
Heavy Commercial District and Industrial Districts	100’ diameter’	120’ diameter	

* Measured to front of adjoining curbs.
**7 foot to provide room for fire hydrants and other utilities, street lights and traffic/no parking signs, and still meet ADA compliance.

22.7.10 *Dead-End Streets*

(a) *Dead-End Streets*

Except when recommended by the Director of Community Development, or designee, no public dead-end streets will be approved unless they are provided to connect with existing streets (including stubbed-out streets) or future platted streets on adjacent land.

(1) In the case of dead-end streets that will eventually be extended into the adjacent property, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end.

(2) A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in Section 22.7.9 Cul-de-Sac Streets above. Hammerhead or T shaped turnarounds are not allowed unless approved by the Director of Public Works or Designee. Where hammerhead or T shaped turnarounds are authorized, no parking signs shall be placed at each end of the hammerhead or T-shaped turnaround.

(3) A note shall be placed on the Final Plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street may be and is intended to be extended in the future. Signage and lettering shall be in accordance with the requirements in the SDM and must be large enough to be legible by a person with normal vision at a fifty-foot (50') distance. Any required temporary turnaround easements shall be shown on the Final Plat along with their appropriate recording information, if they are off-site or established by separate instrument.

(4) Private dead-end streets shall meet all the standards and requirements herein for public dead-end streets.

22.7.11 *Street Width and Design*

(a) *Pavement Widths and Rights-of-Way*

Pavement widths, designs and rights of way for all arterials and collectors shall be in accordance with the adopted Thoroughfare Plan and the SDM. Pavement widths, designs, and rights-of-way for local streets shall be as follows:

Table 22.7.11 (a)
Widths/Design Required by Street Type

Street Type	Minimum Right-of-Way Width	Min. Utility Right-of-Way or easement Width [2]	Minimum Paving Width [1]	Median Width	Sidewalk Required (See Section 22.13)
Multi-family & Commercial Industrial (Local)	64' 60'	10'	44' [4] 36'	n/a	On all single-family streets, Yes, 5 ft curb back or 4 ft property line dependent on location and type of development.
	The minimum centerline radius shall be 250' or have a design speed of 30 mph, except for L-shaped (90°) intersections.				
Single Family Local	60' or 60' [3]	10'	32, 28' [3]	n/a	
	The minimum centerline radius shall be 150' or have a design speed of 25 mph, except for L-shaped (90°) intersections.				

[1] Measured to face of adjoining curbs.
[2] Where all public and private utilities are required or desired to be within street right-of-way. The more narrow measure indicates the subdivider exercises his option to provide a common trench for electric and communication utilities. (See Section 22.6.3 Utility Location Policies).
[3] Single-family detached residential streets of less than 600 feet in length with fewer than 24 lots may use the smaller width when the facing lots are 60 feet or wider with two car driveways 20 feet in width or with rear entry from alleys.
[4] Local multifamily and commercial streets provide 4 additional feet on the outside lanes for bikeways. Roadways designated for bike lanes on the MPO Transportation Plan will have striped bike lanes. On minor arterials and collector streets, the outside lane shall be 16 feet including an additional 5' of bike lane. The Commission may allow an exception to provide a bike and hike path in lieu of bike lanes.
[5] ROW at intersections shall be flared to accommodate the exclusive right turn lanes and other improvements as required in the TIA or as shown in the typical in the SSC. On major and minor arterials, the flaring shall also accommodate 24-foot medians to provide for future dual left turn lanes.

(b) *Design*

Streets shall be designed according to the following requirements:

(1) Freeways. Streets shall be designed to accommodate cross-country and/or limited cross-city traffic movement, with partial control of access and possible grade separation at major intersections.

(2) Arterial. Streets shall be designed to accommodate cross-city traffic movement, distributing traffic to and from collector streets.

(3) Collector. Streets shall be designed to collect traffic from local streets and connect with arterial streets and freeways.

(4) Subcollector. Generally, the term "subcollector" shall refer to streets designed to accommodate traffic movement from local streets to higher classifications of streets as well as provide direct access to activity on individual lots. Specifically, a subcollector

may be defined as any street or portion thereof providing direct access to property within commercial or industrial districts as designated on the official Zoning Map of the City of Shenandoah, any street or portion thereof providing the shortest direct route to a collector street for twenty-five (25) dwelling units or more, or any street segment extending without offset from a collector street and connecting two or more collector streets. Where subcollector streets are terminated by a permanent turnaround, standards for street width and paving shall be as described in Table 22.7.11 (a).

(5) Local. Streets shall be designed to provide direct access to residential activity, and in such a way as to discourage through traffic. Where local streets are terminated by a permanent turnaround, standards for street width and paving shall be as described in Table 22.7.11 (a).

22.7.12 *Street Offsets*

(a) *Intersection Off-Sets and Spacing*

No combination of two (2) streets intersecting a third shall have their centerlines offset any less than the distance specified in Table 22.7.12 (a) unless a Traffic Impact Analysis recommends a greater distance to preserve safe and efficient traffic operations. The City Administrator, or designee, may grant an exception where infill, topographic or other physical features render the required offset unnecessary or impractical.

Table 22.7.12 (a)
Minimum off-Set Distances, Signal Spacing

Types of Streets Intersecting at Offset[1]	Type of Street Intersected	Minimum Off-Set Distances [2,3]	
		Non-Conflicting Left Turn	Conflicting Left Turn
Local/Local	Local	125’	125’
Local/Local	Collector	125’	125
Local/Local	Arterial[4]	125’	300’
Local/Collector	Collector	125’	300’
Local/Collector	Arterial	125’	300’
Local/Arterial w/median	Arterial[4]	200’	400’
Collector/Collector	Collector	250’	400’
Collector/Collector	Arterial	300’	400’
Collector/Arterial	Arterial	300’	400’

[1] For the purposes of this paragraph, subcollectors shall be considered as local streets, and freeways shall be considered as arterial streets.
[2] Measured from closest inside curb to closest inside curb. If one intersection is signalized, the minimum spacing to the next unsignalized intersection shall be 600’ or as dictated by TIA.
[3] Existing and future signalized intersections shall be at least 2650 feet apart in order to match the desired spacing in the Thoroughfare Plan and shall be required to have left turn storage in both directions. The Director of Public Works or designee may approve a reduction to the required signal spacing to meet a specific need. The Director of Public Works may also require lining up of intersections for future or existing signalization or median breaks, as required in Section 22.7.6(g) Configuration Shall Reduce Minimal Offsets or as required by the Traffic Impact Analysis. Signal spacing in central business districts may be reduced upon approval of the Traffic Engineer or their designee. Signals shall be spaced at least 2650 feet or more from frontage roads.
[4] Local streets intersecting with an arterial with no median break shall not be required to be offset.

22.7.13 *Curbs and Gutters*

(a) *Curbs and Gutters*

Curbs and gutters shall be installed according to the provisions of this Section and to the SDM. Combination curb and gutter improvements shall be provided to mark the edge of pavement and carry off surface water, as set forth below:

(1) Beside Freeways. The subdivider shall be required to install curbs along the outside lanes in rights-of-way designated for freeways.

(2) Beside Arterial and Collector Streets. The subdivider shall install curbs on both sides of all arterial and collector streets within the subdivision, and on one side of all such streets at the subdivision boundary.

(3) Beside Local Streets and Subcollectors. The subdivider shall install curbs on both sides of all subcollector and local streets within the subdivision and at subdivision boundaries, except for existing boundary streets, in which case curb and gutter installation shall be required on the subdivision side only.

(4) At Street Intersections. The minimum curvature of curbs at street intersections shall be as prescribed in the following table, the SDM and/or the Shenandoah Thoroughfare Plan and shall maintain proper stopping sight distance as determined by the latest edition of AASHTO's "A policy on Geometric Design of Highways and Streets".:

Table 22.7.13 (a)
Minimum Curvature of Curbs at Street Intersections

Intersection	Curb Turn Radius
Local with: Local, Subcollector, or Collector	20'
Local with: Arterial or Freeway	25'
Subcollector with: Subcollector, or Collector	20'
Subcollector with: Arterial or Freeway	25'
Collector with: Collector	25'
Collector with: Arterial or Freeway	30'
Arterial with: Arterial or Freeway	40'

22.7.14 *Street Names and Addresses*

(a) *Street Names*

(1) Requirement. New streets in a subdivision shall be named in a way that will provide continuity of street names and prevent conflict or confusion with existing street names in the City, in the City's extraterritorial jurisdiction or in a neighboring jurisdiction. Street names shall be subject to the approval of the Community Development Director, or designee for subdivisions located within the corporate limits, or within the extraterritorial jurisdiction. Subdivisions submitted as a Preliminary Plat shall indicate proposed street names for streets within the subdivision. The Community Development Director or designee may review, coordinate with the Fire Department and 9-1-1 and accept, in accordance with these standards, any street name that is proposed. The Community Development Director, or designee when requested by the subdivider, may originate street name(s) as needed. Approved street names shall be shown on the Final Plat of the subdivision.

(2) Standards

a. Preliminary street names shall be shown on the Preliminary Plat and final street names shall be approved with the Final Plat and shown on the recorded Plat. Street names shall not conflict with or duplicate any existing street name within the City or Montgomery County. Conflict may be based on the following;

1. Close pronunciation to another street name,
2. Street name is too difficult to pronounce,
3. Street names with undesirable meanings or connotations, and
4. Street names with language translation problems.

b. New streets which are extensions of, or obviously in alignment with, existing streets shall bear the name of the existing street.

c. Cul-de-sac streets having six or more lots fronting on them, or that have more than one hundred fifty feet or more in length measured from the centerline of the intersecting street to the center of the turnaround, shall have street names assigned to them. All other cul-de-sac, inlets, turning heels or eyebrows shall carry the street name, suffix and house numbering sequence of the main street.

d. Street names shall contain a maximum of thirteen letters and spaces, unless otherwise approved by the Council, upon recommendation of the Commission.

e. Street names shall not begin with initials.

f. Street names shall contain suffixes according to the standards listed below, except that streets within the extraterritorial jurisdiction shall be provided a street name suffix of "road" except where otherwise approved by the Community Development Director.

g. Streets in excess of 1,000 feet may be called a Street, Avenue, Drive or Boulevard. Streets less than 1,000 feet should be called a Place, Court, Way, Lane or Circle.

h. Arterials with a right-of-way width of one hundred forty feet or more, and frontage roads within a freeway right-of-way shall be assigned the suffix of boulevard.

i. Streets with curves, doglegs or offsets up to 90 degrees with fewer than six (6) lots fronting on them and no intersecting streets shall maintain the same name

and addressing as the street at each end.

(b) *Street Addresses*

(1) Requirement. Street addresses shall be assigned by Montgomery County 9-1-1 for subdivisions located within the corporate limits, or within the extraterritorial jurisdiction, as part of the Preliminary Plat submittal. Staff will also consult with the Fire Marshall. Street addresses shall be shown on the final recorded Plat of the subdivision, including residential, commercial and industrial lot addresses. Blocks to be divided into lots in the future by replatting shall show the address range on the recorded Plat.

(2) Standards.

a. A property not requiring a subdivision shall have frontage on a dedicated public or private street before an official street address may be assigned to it.

b. Addresses shall not be assigned to landlocked or illegally subdivided properties.

c. As adjacent territory is annexed into the city, the existing street names and addresses in the newly annexed areas shall be reviewed by the director and modified as necessary to eliminate duplication of street names already existing within the city, and to ensure that all addresses follow the numbering sequence existing in the city

(c) *Renaming of existing streets shall also be in accordance with this Section.*

22.7.15 *Private Streets*

(a) *Permitted Only as Subcollector or Local Street*

Private streets shall be permitted only as local or subcollector streets in all subdivisions. Private streets shall require approval as an exception at the time of Preliminary Plat approval by the Council, upon recommendation of the Commission, in accordance with these Regulations. Construction and development of private streets shall meet the standards for right-of-way width and improvement as set forth in this Section 22.7 Roadways as applied to public streets.

(b) *Classification*

At the time a private street is proposed, it shall be classified as either a local or subcollector street, as described herein and made to conform in all respects with right-of-way paving, curb and gutter, construction, and design requirements as applicable to a public street.

(c) *Subdivision Boundary Streets*

New subdivision boundary streets shall not be private.

(d) *Private Streets, General*

Private streets, general. In order to be considered for an exception to allow the construction of private streets, the developer shall meet the requirements set out in this section. In relation to private streets, the City will not assist in enforcing deed restrictions. The City may periodically inspect private streets, and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare on private streets.

(1) Construction and Maintenance. All private streets shall be designed, constructed, and maintained to meet city standards. The construction and improvement plans shall be reviewed by the city in the same manner as construction and improvement plans for public infrastructure. The City shall not pay for any portion of the cost of constructing or maintaining a private street. In the case of construction of new private streets, the Director of Community Development, or designee, shall inspect and require certification that said streets conform to all applicable standards and specifications referred to or

contained herein this Section. The subdivider shall furthermore provide to the Director of Community Development, or designee, a schedule of construction of private streets to accommodate inspection, and upon completion provide as built drawings to the City as if the street were public. In addition, the subdivider shall reimburse the City of Shenandoah the cost of inspections.

(2) Inspection during construction. All private streets shall be subject to inspections by city staff in the same manner, at the same intervals, as public streets, including the payment of applicable inspection fees. A construction schedule shall be submitted with the construction and improvement plans in order to assist in scheduling the inspections. Failure to pass an inspection and meet city construction standards shall require re-inspection, and re-construction, as necessary. No certificates of occupancy shall be released for structures along a private street until all inspections shall have been completed satisfactorily. The subdivider shall furthermore provide to the City Administrator, or designee, upon completion as built drawings to the City as if the street were public. In addition, the subdivider shall reimburse the City the cost of inspections or plan review fees.

(3) Traffic Control Devices. All private traffic control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices", as amended, and to City standards.

(4) Restricted Access. The subdivision homeowners association shall clearly mark entrances to all private streets with a sign, placed in a prominent and visible location, indicating that the streets within the subdivision are private, and not maintained nor regularly patrolled by the City. All restricted access entrances shall be manned twenty-four (24) hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method used to ensure City and emergency access into the subdivision shall be approved by the City's Fire Department and by any other applicable emergency service providers during the final platting process. Gates on private streets shall provide a traffic queue analysis and provide adequate on-street storage in advance of the gate. If the homeowners association fails to maintain reliable access as required herein, the City may enter the private street subdivision and remove any gate or device that is a barrier to access, and bill the expense to the association. If the bill is not paid, the City may file a lien for the expense against any property owned by the association.

(5) Waiver of Services. Certain City services may not be provided for private street subdivisions. Among the services that may not be provided are: street maintenance, routine law enforcement patrols, enforcement of traffic and parking regulations, preparation of accident reports, and street lighting. Street lighting in accordance with these Regulations and the SDM shall be provided entirely at the expense of the property owners. Decorative poles and/or alternative spacing may be allowed by the Director of Community Development, or designee. Solid waste (trash) collection and recycling collection will also not be provided by the City of Shenandoah on private streets. Depending on the characteristics of the development and access limitations posed by the design of entrances into the subdivision, other services may not be provided as well. Certain city services may not be provided for private street subdivisions, including street maintenance, routine law enforcement patrols, enforcement of traffic and parking regulations, preparation of accident reports, and payment of costs for street lighting. A note as to waiver of services may be required on the face of the plat. Certain City services may not be provided for private street subdivisions. Among the services that may not be provided are: street maintenance, routine law enforcement patrols, enforcement of traffic and parking regulations, preparation of accident reports, and

street lighting. Street lighting in accordance with these Regulations and the SDM shall be provided entirely at the expense of the property owners. Decorative poles and/or alternative spacing may be allowed by the City Administrator, or designee. Solid waste (trash) collection and recycling collection will also not be provided by the City on private streets, unless a separate contract is entered into with the cost paid by the subdivision residents. Depending on the characteristics of the development and access limitations posed by the design of entrances into the subdivision, other services may not be provided as well.

(6) Street lighting. Street lighting as required by this Section shall be entirely at the expense of the developer and subsequent property owners. Decorative poles or alternative spacing may be approved by the City Administrator, or designee, following a recommendation by the DRC, who shall make such recommendation based on the lighting type, the lumens necessary to effectuate safe traffic and pedestrian travel, and a finding that the proposed lighting plan provides as well or better for the health, safety and welfare of the future residents of the private street subdivisions.

(7) Maintenance. The developer shall provide for the establishment of a homeowners or property owners association, in covenants, conditions, and restrictions (CCRs), to assume the obligation of perpetual maintenance of private streets and other improvements held privately, including a mandatory assessment for such private streets and improvements to be placed on all property owners within the subdivision, allowance for city staff to inspect the streets to assure they are being maintained to city standards, hold harmless provisions as required in subparagraph 9, and providing for notice to the City Attorney and City Administrator of any amendments to these relevant sections. The city shall be a necessary party for the amendment of any portions of the CCRs dealing with these requirements. The proposed CCRs shall be submitted for review by the City Attorney at the time of filing the preliminary plat. The City Attorney shall review the CCRs to ensure that the requirements of this section are met, and shall submit recommended changes to the developer, who shall incorporate such changes. Absence of City Attorney approval of the CCRs shall require the denial of the exception for private streets.

(8) Petition to Convert to Public Streets. A property owners association may petition the city to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members, and the favorable vote of a majority of the membership, or as required in the CCRs. A dedication instrument shall also be submitted, and shall be reviewed and the final form approved by the City Attorney prior to submission of this request to Council.

(9) The city shall not be required to accept any private streets for public dedication and maintenance. The staff shall review the request and make a recommendation to P & Z, who shall forward a recommendation to Council. Council shall make their decision based on the public health, safety and welfare considerations of the streets.

(10) As a condition of accepting the dedication and maintenance of private streets, the city may impose a requirement for repairs and improvements at private expense prior to acceptance, enter into an agreement for an assessment or pro-rata sharing of costs for repairs or improvements prior to acceptance, or other legal or equitable options to ensure that the streets being accepted are not a liability to the city. The city shall be the sole judge of the nature and extent of repairs or improvements needed. The city may also require, at the sole expense of the association's or property owner's expense, the removal of any guard houses, access control devices, landscaping or other amenities located within the streets or common areas prior to city acceptance.(8)Private Streets: Hold Harmless: The property owners association, as owner of the private streets and

appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental or utility entity.

22.7.16 *Alleys*

(a) *Required*

(1) Alleys may be required to be dedicated in commercial and industrial subdivisions by the Community Development Director or designee as part of the Preliminary Plat approval. Requirements for alleys may be appealed to the Council, upon recommendation of the Commission.

(2) If a request of a Staff member is not made, the dedication of alleys shall be optional in all subdivisions, except where alleys must be dedicated as direct continuations or extensions of one existing in adjacent subdivisions. Such continuations shall be extended in the same alignment as evident from adjacent lots in the existing subdivision, except where an existing alley is less than twenty feet (20') wide. In that case, additional land shall be dedicated to form an alley at least twenty feet (20') wide.

(b) *Existing Subdivisions with Alleys*

Where lots are subdivided or resubdivided adjacent to or within subdivisions already having alleys, the alley must be improved only to the same extent as may be evident from the existing alley. Where lots are subdivided as continuations of existing subdivisions already having alleys, alleys in the new subdivision shall be improved only to the same standards as those existing alleys, all the way to the first street intersection. Thereafter, if alleys are required or desired, they should conform to standards for alley dedication and improvement set forth in subsections (c) below:

(c) *Public Alley ROW and Paving Widths*

(1) Public alley ROW's in commercial, industrial, and multiple family residential districts (including townhouses and patio homes where rear automobile access is intended) must be a minimum width of twenty-eight feet (28'). Twenty four feet (24') of the minimum width must be surfaced in accordance with the SDM or City specifications as approved by the Director of Community Development, or designee.

(2) Public alleys ROW's in subdivisions, or portions thereof, proposed for single-family residential use must be a minimum width of twenty feet (20'). Sixteen feet (16') of the minimum width must be surfaced in accordance with the SDM or City specifications as approved by the Director of Community Development, or designee.

(d) *General Requirements, if alleys are to be dedicated*

(1) Alleys shall be dedicated and designed in in accordance with the SDM.

(2) Alleys shall be as nearly parallel to the street frontage as reasonably possible.

(3) Alley intersections with streets shall be as close to right angles (90°) as practical.

(4) Where two alleys intersect or turn at an angle, a corner clip of not less than ten feet (10') from the normal intersection of the property line shall be provided along each property line.

(5) If alleys are not straight within each block or do not connect on a straight course with alleys on adjoining blocks, an easement shall be provided for the placement of guy wires

on lot division lines necessary to support overhead utility poles set on curving or deviating alley rights-of-way.

(6) Alleys should not be platted to intersect any arterial streets.

(7) Dead end alleys shall not be permitted unless a permanent or temporary turnaround is provided. The following standards shall apply:

a. In subdivisions subject to subsection (b)(1) above, turnarounds shall be provided with a minimum radius of thirty-five feet (35').

b. In all other subdivisions, turnarounds shall be provided with a minimum radius of thirty-two feet (32').

c. In instances where dead end alleys will clearly be permanent, turnarounds shall be surfaced in accordance with subsections (b)(1) or (b)(2), as applicable.

d. In instances where dead end alleys are of a temporary nature, turnarounds shall be improved with a minimum six-inch (6") base of crushed limestone.

(8) Layout and arrangement of alleys shall be designed to avoid the creation of short cuts for traffic and to discourage use by traffic other than that generated by activity within property abutting the alley.

(9) Cross intersections of alleys shall not be permitted.

(10) Alleys forming the boundary of a subdivision, and adjacent to unplatted property, shall be dedicated and improved the same as if situated in the interior of a subdivision.

22.8 Streetlighting Standards

22.8.1 *Streetlighting Required*

(a) *Requirement*

The subdivider shall furnish and install streetlights along all public and private streets, whether within the corporate limits or within the extraterritorial jurisdiction. Such streetlights shall comply with these Regulations, and with the requirements of the SDM. The standards shall apply in determining the number of streetlights required, and are based on approved standards of the American National Standards Institute and the Illuminating Engineering Society of North America, a copy of which is maintained by the Director of Community Development

(b) *Standard*

Streetlights shall be installed in accordance with the SDM by the developer at all intersections and at the turnarounds of cul-de-sacs, and shall have no greater distance than three hundred feet (300') between them within or abutting the subdivision. Non-residential developments fronting on or siding up to arterials or collectors shall also install streetlights at a spacing in accordance with the SDM. "Dark Sky" compliant streetlights shall be encouraged wherever possible.

(c) *Expenses prior to Acceptance*

The subdivider shall be responsible for the maintenance and associated cost of electrical energy of the streetlights until such lights are accepted by the city or county for maintenance as provided in these Regulations. The city or county shall accept the streetlights for maintenance and electrical energy costs at the time it accepts the streets and other public improvements within the subdivision for maintenance

22.8.2 *Plan Required*

(a) *Illumination Plan*

An illumination plan for all streets within the subdivision, pursuant to the requirements of this section, shall be filed, together with the subdivision improvement plans, as provided in Section 21.8 Construction Plans and Management. The plan shall show the proposed location of the streetlights. The illumination plan shall be subject to the approval of the Director of Community Development within the corporate limits, and of the county engineer within the extraterritorial jurisdiction.

(b) *Amended Illumination Plan Required*

Prior to the acceptance of the street lights for maintenance by the city or county, an amended illumination plan showing the final location, if different from the approved plan, of the street lights installed by the subdivider shall be submitted to the Director of Community Development and the county engineer for subdivisions in the ETJ.

22.8.3 *Custom Lighting*

(a) *Alternatives to Standard Lighting*

The subdivider may elect to provide custom lighting in lieu of the required standard street lighting, subject to the approval of such lighting by the Director of Community Development or county engineer. Custom lighting shall be furnished and installed to meet the approved standards of the American National Standards Institute and the Illuminating Engineering Society of North America.

(b) *Conditions*

Where custom lighting is approved within the street right-of-way, the city or county shall be liable for the costs of electrical energy of the custom lighting provided that the following conditions are met:

(1) A separate rate can be charged to the city or county by the electric utility for the custom lighting proposed; and

(2) The total rate charged to the city or county is equal to or less than the rate for electrical energy for standard street lighting.

(c) *Homeowner's Association Required*

If a subdivider elects to provide and install custom lighting, a homeowner's association (or other such private entity) shall be created which will be perpetually liable for all costs associated with the maintenance of the lighting fixtures. Where the city or county are not liable for the costs of electrical energy from the custom lighting as provided in this subsection, the homeowner's association shall also be liable for the electrical energy costs of the custom lighting.

(d) *Agreement Required*

(1) An agreement between the city or county and the homeowner's association shall be required which makes adequate provision to indemnify and hold the city or county harmless from any claims which may arise from the custom lighting, whether within or outside of the public right-of-way.

(2) The agreement shall provide that the city or county may require that any or all of the installed custom lights be removed, at the homeowner's association expense, when a finding is made by the Council or county commissioners' court based on a recommendation of the Director of Community Development or county engineer that the custom lighting creates a nuisance or is unsafe.

(3) Upon such a finding, standard street lighting pursuant to this section shall be required to be furnished and installed to replace the custom lighting.

(e) *Approval of Agreement Provisions*

The city or county shall reserve the right to review and approve all such provisions of the agreement. The agreement shall accompany the subdivision improvement plan submission. Restrictive covenants that include the provisions for continuous lighting and perpetual maintenance of the custom streetlights shall be recorded by the subdivider concurrently with the subdivision.

(f) *Notification of Electric Utility*

Where custom lighting is provided, the subdivider or homeowner's association shall notify the electric utility before any work is commenced at any street light location.

22.9 Driveways

22.9.1 *Reference*

22.9.2 *Driveway Approaches and Related Requirements*

(a) *Requirements*

Driveway approaches, curbs, gutters, pavements and appurtenances on public property and other facilities to provide access to abutting properties in the City and ETJ in connection with platting or building construction shall be constructed, provided, altered or repaired in accordance with the City of Shenandoah Design Manual (SDM), Section 5.3.5 Driveway Approaches and Related Requirements of the Zoning Regulations and as prescribed by the standards outlined within these Regulations.

(b) *Median Openings and Driveways Shown*

On all construction, plat and site plans, existing and future median openings must be shown on the adjacent street to avoid conflicts. Existing driveways and future driveways, where known, shall also be shown in order to reduce traffic conflicts on Shenandoah's streets.

22.9.3 *Shared Driveways and Cross-Access Drives and Related Easements*

(a) *Driveway Approaches and Shared Driveways*

Shared access driveways and related easements are encouraged and may be required by the Director of Community Development, or designee in order to ensure safe public access by providing mutual/common access to a median opening, to minimize the number of driveway cuts on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots. (See Illustration 7.4.3.b, Sample of Connectivity and Shared Access in Section 7.4 Mixed Use Overlay District Approval and Specific Regulations)

(1) Arterial Street. A shared mutual access easement(s) for a driveway(s) may be required between adjacent lots fronting on an arterial street, as designated on the Thoroughfare Plan (as the street exists or is planned to be improved in the future);

(2) Location and Dimension. The location and dimensions of such easement(s) shall be determined by the Director of Community Development, or designee.

(3) Easement on Plats. Such easements shall be noted on the Preliminary Plat and Final Plat with the language specified as part of the City's application requirements.

(b) *Cross Access Internal Drive and related Easements*

Cross access easements for internal driveways are encouraged and may be required as part of the Preliminary and Final Plat Approval by the Community Development Director, or designee in order to minimize the number of driveway cuts on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots. (See (See Illustration 7.4.3.b, Sample of Connectivity and Shared Access in Section 7.4 Mixed Use Overlay District Approval and Specific Regulations)

(1) May Be Required. A cross access easement(s) for an internal driveway(s) may be required between adjacent lots. Such easement shall be required between adjacent properties within the same plat, phases of plats or ownership when the following conditions exist;

a. On arterial frontages between adjacent parking lots

b. Between lots when one or more do not have direct access to the thoroughfare

c. When accessing shared driveways

d. On arterial lots in close proximity to intersections where individual lot driveways to not align with median breaks, thereby giving each lot access to a median break.

(2) Location and Dimension. The location and dimensions of such easement(s) shall be determined by the Director of Community Development, or designee.

(3) Easement on Plats. Such easements shall be noted on the Preliminary Plat and Final Plat with the language specified as part of the City's application requirements.

22.10 Traffic Impact Analysis

22.10.1 *Purpose and Applicability*

(a) *Purposes and Findings*

(1) New development must be supported by an adequate network of streets and thoroughfares.

(2) Streets and thoroughfares are an essential component of the City's street network and are necessary to accommodate the continuing growth and development of the City.

(3) It is necessary and desirable to obtain rights-of-way for off-site, abutting and internal thoroughfares to support new development at the time of platting or development of the land.

(4) The City desires to assure that both on-site and off-site development impacts are mitigated through contributions of thoroughfare rights-of-way and improvements and that development projects are not required to contribute more than their proportional share of thoroughfare costs in accordance with these Regulations.

(5) It is the City's intent to assure that dedications of thoroughfare and street rights-of-way and their construction requirements are proportional to the traffic demands created by a new development.

(6) It is the intent of the City that a road adequacy determination be made concurrent with consideration and approval of development applications.

(b) *Applicability*

(1) A Traffic Impact Analysis (TIA), in adherence to standards contained within this Section, shall be required by the Director of Public Works, or designee for the following unless

the Director of Public Works, or designee determines that a TIA is not needed due to studies already completed or improvements already constructed.

A Traffic Impact Analysis (TIA), in adherence to standards contained within this Chapter and City of Shenandoah approved guidelines, shall be required by the Director of Public Works, or designee, for the following unless the Director of Public Works, or designee, determines that a TIA is not needed due to studies already completed or improvements already constructed.

a. All proposed developments within the City limits and within the City's extraterritorial jurisdiction that are expected to generate traffic in excess of 2,000 average incremental increase daily trips for commercial and industrial uses and 2,000 average daily trips for residential.

b. If a development project will generate more than 200 peak hour vehicle trips for commercial or industrial uses or 200 peak hour trips for residential uses.

(2) The number of trips generated by the proposed development shall be based on proposed land uses and intensities according to the latest edition of the Institute of Transportation engineers (ITE) Trip Generation Manual or locally approved trip generation rates.

(3) In the event that land uses and intensities of use for the development are not identified in a development application, the daily trip generation rate shall be computed based upon the maximum land use intensity allowed under the City's adopted Comprehensive Plan for the land proposed to be subdivided or developed.

22.10.2 *Standards for and Timing of Traffic Impact Analysis*

(a) *TIA and Update Required*

A TIA shall be submitted with a Zoning Application, a Preliminary Plat or with the Land Study, if the threshold requirements above have been met. An updated TIA shall also be submitted with the Final Plat if substantial changes have been made from the Preliminary Plat, and shall be generally consistent with the TIA submitted with the Preliminary Plat. The initial TIA shall be also be updated whenever the plan for the proposed development is modified to authorize more intensive development.

(b) *Contents*

(1) The TIA on a Land Study (or Preliminary Plat or Zoning Application if no Land Study is provided) shall identify or determine the following:

a. Trips to be generated by the proposed development trip generation shall be calculated using the latest edition of ITE's Trip Generation Manual or trip generation rates approved by the City of Shenandoah;

b. Distribution and assignment of such trips to the road network analyzed;

c. The capacity of affected thoroughfares before and after the proposed development. Capacity shall be quantified by level-of-service based on the latest version of the *Highway Capacity Manual*. The volume to capacity ratio (v/c) shall be included in the level-of-service tables. The capacity analysis shall include the AM and PM peak hours, 24-hour, and special times or days of the week dependant of the land use's peak traffic generating time periods as determined from the latest version of *ITE's Trip Generation Manual*. Additional factors such as pedestrian trips, bicycles, and mass transit as possibly mitigating vehicle trip counts shall be considered where warranted.

d. Deficient thoroughfares, capacity, median breaks, ingress and egress or

signalization; OR

Deficient thoroughfares or roadways shall be determined based upon the minimum acceptable level-of-service in the full build out year of D in the latest version of the *Highway Capacity Manual*.

e. The City may choose to participate in roadway improvements to restore a minimum level of service C.

f. In cases where the level of service of the roadway network is below D, the proposed development should not increase roadway/intersection delay. The Council, upon recommendation of the Director of Public Works or designee may deem that the proposed development cannot be supported by the existing roadway network

g. The development project's proportionate share of the costs of such thoroughfares and modifications including rights-of-way.

(2) A new TIA or an amended TIA shall be required at the time of Final Plat or Building Permit if a TIA was either not required or determined to be necessary previously or if the TIA required as part of a Zoning Amendment, Land Study or Preliminary Plat did not provide the following information. The new or revised TIA shall include:

a. Turning movements at intersections, access points, and median breaks;

b. Analysis of median breaks, ingress and egress and all intersections, including a queue analysis, for both AM and PM peak hours and special times or days of the week dependant of the land use's peak traffic generating time periods as determined from the latest version of ITE's Trip Generation Manual;

c. The capacity of affected intersections before and after the proposed development shall be reported, based on the latest version of the Highway Capacity Manual, adjusted to reflect existing signal timing plans. The volume to capacity ratio (v/c) shall be included in the intersection level-of-service tables;

d. Deficient intersections and capacity. Deficient intersections shall be determined based upon the minimum acceptable level-of-service in the full build out year of D in the latest version of the *Highway Capacity Manual*.

e. Specific recommendations for thoroughfare, intersection, and roadway improvements and traffic control modifications and other traffic improvements to mitigate the traffic from the proposed development (any proposed signal timing must include the entire coordinated system not just intersections within the TIA study area); and

f. The development project's proportionate share of the costs of such improvements and modifications including rights-of-way.

g. Specific recommendations including but not limited to bus turnouts, auxiliary lanes, traffic calming, location of access points, location of median cuts, parking lot layout, and site distance.

h. The City may choose to participate in roadway improvements to restore a minimum level of service C. In cases where the level of service of the roadway network is below D, the proposed development should not increase roadway/intersection delay. The Council, upon recommendation of the Director of Public Works or designee may deem that the proposed development cannot be supported by the existing roadway network.

(3) The method of preparing the TIA shall be determined by the Director of Public Works.

(c) *Capital Improvements Plan for Roads*

The capacity of a thoroughfare may be considered adequate for purposes of a TIA if a needed improvement is included, funded, and approved in the City's, County's or state's two(2)-year capital improvements plan for roads, or, if the improvement is included, funded, and approved in the City's, County's or state's three (3)- to five (5)-year capital improvements plan for roads, provided that the applicant agrees to phase development to conform to such scheduled improvement. This section shall not be construed to prevent the City from requiring dedication of rights-of-way for such roads, or from assigning trips to such roads in a TIA in order to determine a development project's proportionate costs of improvements.

(d) *Use Intensity Table*

Where a proposed Plat application does not designate the land use or intensity of use proposed for the development, for purposes of ascertaining the applicability of this Section and the trips to be generated, the City may utilize typical uses and intensities of use for a non-residential or multiple-family zoning district within the City limits. For land to be developed for non-residential or multiple-family use in the City's extraterritorial jurisdiction, the City may utilize uses and intensities of use that are typical in the most intensive zoning district that authorizes the type of use proposed in the development.

22.10.3 *Criteria for Determining Traffic Impact Analysis Requirements*

Scope. The scope of the Traffic Impact Analysis shall be based on the peak hour trips projected to be generated by the proposed development, as set forth in the following table:

Table 22.10.3 (a)
Criteria For Determining Traffic Impact Analysis

Non-residential Adjusted Peak Hour Trips	Section Residential Peak Hour Trips	TIA Analysis Period	Section TIA Scope
49 or less	99 or less	1. n/a	Not Required
50-99	100-500	1. Existing 2. Opening year 3. Full build-out year 4. 5 years after full build-out 5. 10 years after full build-out	The frontage of the property, all access points (including common access), and all intersections within a ½ mile radius of the proposed development.
101-499	501-1000	1. Existing 2. Opening year 3. Full build-out year 4. 5 years after full build-out 5. 10 years after full build-out	The frontage of the property, all access points (including common access), and all intersections within a 1 mile radius of the proposed development.
501 or more	1000 or more	1. Existing 2. Opening year 3. Full build-out year 4. 5 years after full build-out 5. 10 years after full build-out	The frontage of the property, all access points (including common access), and all intersections within a 1 1/2 mile radius of the proposed development.
NOTE: All measurements shall be made from property boundaries.			

22.10.4 *City Evaluation and Action*

(a) *Criteria*

(1) The Director of Community Development, or designee, shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the Director of Community Development, or designee, shall make recommendations concerning:

a. Whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare; and

b. The extent of the applicant's obligations to make such dedications or improvements. .

(2) The Director of Community Development, or designee, may recommend, and the decision-maker on the application may attach, conditions to the approval of the development application, based on one or more of the following performances by the applicant:

a. Delay or phasing of development until thoroughfares with adequate capacity or

intersection improvements are constructed;

b. A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development;

c. The dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development; or

d. Any combination of techniques that assures that the traffic impacts of the development will be mitigated.

(b) *Deferral of Obligation*

Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on a development application may be deferred until the City's action on a subordinate (i.e., subsequent) development application. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, the deferral shall be at the sole discretion of the City. The City shall require the developer to execute a Subdivision Improvement Agreement (see Section 21.8.7 Developer and Developer Participation Agreements) specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares.

22.11 Stormwater Management Requirements

22.11.1 *General Provisions*

(a) *Purpose and Intent*

The purpose of this Stormwater Management Section is to protect, maintain and enhance the public health, safety, environment and general welfare of the citizens of Shenandoah, Texas and the ETJ, by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff and non-point source pollution associated with new development and redevelopment. It has been determined that proper management of storm water runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water resources. These Regulations seeks to meet that purpose through the following objectives:

(1) Establish decision-making processes surrounding private and public land development activities that protect the integrity of the watershed and preserve the health of water resources;

(2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, non-point source pollution and maintain the integrity of natural and man-made channels;

(3) Establish minimum post-development stormwater management standards and design criteria to be adopted via a Drainage Design Manual (DDM) as part of the Shenandoah Design Manual (SDM);

(4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum stormwater management standards thru the DDM;

(5) Encourage the use of nonstructural stormwater management such as the preservation of greenspace and other conservation areas, to the maximum extent practicable.

Coordinate site design plans, which include greenspace, with the City's Master open space plan;

(6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety. Permanent access from the right of way shall be provided to the City for maintenance. In the case of privately maintained facilities, permanent access rights shall also be granted to the City in case of emergency or non-compliance with their maintenance responsibilities.

(7) Establish administrative procedures for the submission, review, and approval of stormwater management plans, and for the inspection of approved active projects, and their continued maintenance.

(b) *Applicability*

This section shall be applicable to subdivision development. The DDM standards shall apply to all development.

(c) *Exemptions*

The following activities are exempt from this Section:

(1) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;

(2) Additions or modifications to existing single-family or duplex residential structures; or minor additions or modifications to multi-family or commercial structures;

(3) Agricultural activities within areas zoned for these activities and/or where agricultural activities are legally allowed; and,

(4) Repairs to any stormwater management facility or practice deemed necessary by the Director of Community Development, or designee.

(d) *Designation and Role of Storm Water Administrator*

The Director of Community Development, or designee, who is a Professional Engineer licensed in the State of Texas, is hereby authorized and appointed to administer and implement the provisions of this section and related Sections of these Regulations, as may be applicable.

(e) *Drainage Design Manual*

The City will utilize, apply, and enforce design standards, methods, criteria, and administrative policies and procedures provided in the latest technical edition of the DDM incorporated by reference in its entirety. The DDM may be updated and periodically expanded as required.

22.11.2 *Stormwater Requirements for compliance with Subdivision Approval*

Within the current Subdivision review and approval process, no owner or developer shall perform any land development activities without first meeting these Regulations prior to commencing the proposed activity. Unless specifically exempted by these Regulations, any owner or developer proposing a land development activity shall submit to the City, with their subdivision the following items for consideration:

(a) *Stormwater Management Plan*

Stormwater management plan in accordance with Section 22.11.3 Stormwater Management Plan Requirements.

(b) *Inspection and Maintenance Agreements*

Inspection and maintenance agreement for private facilities in accordance with Section 22.11.4 Stormwater Management Inspection and Maintenance Agreements for Private Facilities, if applicable.

(c) *City Advisement to Developer*

The City shall advise the developer or his representative whether the stormwater management plan, inspection, and maintenance agreement are compliant.

(d) *Notification of Non-compliance*

If the stormwater management plan or inspection and maintenance agreement are deemed non-compliant, the City shall notify the developer or his representative of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same.

(e) *Approval of the Stormwater Management Component*

Upon a finding by the City that the stormwater management plan and inspection and maintenance agreement, if applicable, meet these Regulations, the City shall approve the stormwater management component of the subdivision submittal provided all other legal requirements for the such approval have been met.

22.11.3 *Stormwater Management Plan Requirements*

(a) *Stormwater Runoff Control*

The stormwater management plan shall detail how stormwater runoff will be controlled or managed and how the proposed project will meet these Regulations, including the performance criteria set forth in the DDM.

(b) *Criteria*

This plan shall be in accordance with the criteria established in this section and must be submitted signed and sealed by a Professional Engineer (PE) licensed in the state of Texas, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the DDM.

(c) *Compliance*

The stormwater management plan must ensure that the requirements in these Regulations are being met. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the DDM.

22.11.4 *Stormwater Management Inspection and Maintenance Agreements for Private Facilities*

(a) *Inspection and Maintenance Agreement Required*

Prior to the approval of any land development activity requiring a stormwater management facility or practice hereunder and for which the City shall require ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility is dedicated to and accepted by the City, execute an inspection and maintenance agreement, if applicable, that shall be binding on all subsequent owners of the site. Permanent access from the right of way shall be provided to the City for maintenance. In the case of privately maintained facilities, permanent access rights shall also be granted to the City in case of emergency or non-compliance with their maintenance responsibilities.

(b) *Approval and Recording*

The inspection and maintenance agreement, if applicable, must be approved by the City prior to plan approval, and recorded in the deed records upon final plat approval.

(c) *Responsible Persons*

The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance activities. Responsibility for the operation and maintenance of the stormwater management facility, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in Section. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

(d) *Schedule for Routine Inspections and Maintenance*

As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.

(e) *Provisions for Ongoing Inspections and Maintenance*

In addition to enforcing the terms of the inspection and maintenance agreement, the City may also enforce all of the following provisions for ongoing inspection and maintenance.

(1) Maintenance and Inspection of Private Stormwater Facilities

a. Stormwater management facilities included in a stormwater management plan that is private and therefore subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and these Regulations.

b. A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the City shall notify the person responsible for carrying out the maintenance plan by certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City may correct the violation as provided in Subsection (4) hereof.

(2) Right-of-Entry for Inspection of Private Facilities. The terms of the inspection and maintenance agreement shall provide for the City to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of these Regulations is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of these Regulations.

(3) Records of Maintenance Activities at Private Facilities. Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the City as required by the agreement.

(4) Failure to Maintain Private Facilities. If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City, after thirty (30)

days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The City may assess the owner(s) of the facility for the cost of repair work that shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes. In the case of privately maintained facilities, permanent access rights shall also be granted to the City in case of emergency or non-compliance with their maintenance responsibilities.

22.11.5 *Construction Inspections of Stormwater Management System*

(a) *Inspections to Ensure Plan Compliance During Construction*

Periodic inspections of the stormwater management system construction shall be conducted by the City.

(b) *Final Inspection and Record Drawings and Documents*

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit as constructed record drawings and documents for any stormwater management facilities after final construction is completed. The record drawings must include the final design specifications for all stormwater management facilities and must be certified by a Professional Engineer licensed in the State of Texas. For those facilities that included mechanical systems, operations and maintenance manuals shall also be included. A final inspection to be conducted concurrent with other inspections by the City is required before the release of any performance bonds can occur.

22.12 Parks and Open Space

22.12.1 *Policy Plan and Purpose*

(a) *Purpose*

These Regulations is adopted to provide recreational areas as a function of subdivision development in the City of Shenandoah. This article is enacted in accordance with the powers of the City of Shenandoah granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, V.T.C.A. Local Government Code, Chapter 212. It is hereby declared by the Council that recreation areas in the form of neighborhood parks, community parks that serve several neighborhoods, linear parks, trails, and open space areas are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new construction on vacant land or the addition of new construction or re-development on existing developed lands.

(b) *Description and Cost Responsibility*

Neighborhood parks, community parks, linear parks, trails and open space areas referred to in this Section are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from the majority of the residences to be served thereby. The primary cost of those parks should be borne by the ultimate property owners who, by reason of their proximity to such parks, shall be the primary beneficiaries of such facilities.

(c) *Basis for Parkland Requirements*

The requirements for parkland are based in part on the standards, needs and objectives set forth

in the Shenandoah Parks and Pathway Master Plan, routinely amended and adopted by the Council, a copy of which shall be retained in the office of the Director of Community Development and which shall be incorporated by reference herein for all purposes.

(d) *Applicability*

Therefore, the following requirements and any requirements in the Parks and Pathway Masterplan are adopted to effect the purposes stated above and shall apply to any development within the City of Shenandoah, except as noted therein.

22.12.2 *Dedication required*

(a) *Dedication required*

All subdivisions located within the corporate limits of the City of Shenandoah and the City's extra territorial jurisdiction (ETJ) may be required to provide for the parkland needs of future residents of their subdivisions through the conveyance of fee simple title of suitable land to the City of Shenandoah, as required by the City of Shenandoah and the Parks and Pathway master plan, subject to Rough Proportionality requirements in Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement.

The land conveyed and deeded to the city shall not be subject to reservations of record, encumbrances or easements that will interfere with the use of the land for park purposes. Where a sub-surface interest is severed from the surface estate, retention of the sub-surface interest may not be considered an encumbrance for the purposes of this section.

(b) *Limitations to Land Conveyance*

The requirement to provide parkland to the city pursuant to this Section shall not be satisfied using land required to be conveyed by the subdivider to the city as part of a separate legal instrument, condition, covenant, contract, agreement, sale or ordinance, except as specifically for.

(1) Dual Park-Pond. Parks and drainage retention or detention ponds may be placed side by side or combined to provide for larger and more efficient park and open space lands for neighborhoods.

a. Conceptual cross-sections for park-pond areas are included in the subdivision standards. These conceptual drawings are intended to serve as a guideline to the designer, and modifications that meet or exceed the intent of this section are encouraged. All park-pond designs shall be approved by the Director of Community Development and/or Parks and Recreation and the Director of Community Development or City Floodplain Administrator.

1. Flat perimeter areas on the rim of the ponding basin shall be provided. These shall be a minimum of fifteen (15) feet in width from the edge of the pond slope to the nearest property line to allow for a trail, landscaping and pond maintenance requirements. If abutting a seven (7) foot sidewalk or trail the flat perimeter area shall be a minimum of five (5) feet. Wider and variable width areas are preferred to create a more park-like appearance.
2. A park-pond shall have a flat contiguous park area adjacent to the detention/retention basin that is not subject to periodic inundation (10-year storm frequency). This area shall be a minimum of one-half acre in size or larger, including the area of the one closest adjacent perimeter flat zone. For park-ponds where the pond portion is over two and one half (2.5) acres in size, the size of the upper area shall be

at least 20% of the area of the pond This area shall be shaped to accommodate the placement of permanent park structures such as play features, multi-purpose courts and shade pavilions.

3. Side slopes in park-ponds shall not exceed a maximum 4 to 1 horizontal to vertical slope. Flatter side slopes are recommended.
4. Perimeter areas around the pond shall be planted to create an attractive buffer zone around the park-pond. Plant materials and required irrigation system(s) must be installed and operational at the time the City accepts the facility. All irrigation and planting shall meet the Park Facilities Standards of the City of Shenandoah.
5. Signs shall be provided to inform the public of the dual Park-Pond purpose and to notify them of the potential safety hazard from Storm Water detention/retention.
6. Percolation tests at the bottom of the park-pond basin shall be performed according to ASTM 5126. Storm water shall percolate within 72 hours or as may be approved by the Director of Community Development.
7. A fully accessible route that meets Americans with Disabilities Act (ADA) standards to the lower park area in the basin of the pond shall be provided.

b. Other Ponds not serving as Park Ponds – shall meet minimum placement, setback and landscaping requirements as established by the City of Shenandoah Stormwater Drainage Manual.

(2) Open space lands and drainage ways - types of land that are noted as areas that should be preserved in the Shenandoah Open Space Master Plan, such as natural drainage ways, may be used to meet the land dedication requirements of this Section:

a. For purposes of this subsection, the area open space to be used in applying the reduction shall be the acreage that is deemed acceptable for preservation by the Director of the Parks and Recreation Department and approved by the Council, upon recommendation of the Commission.

22.12.3 *Deed Conveyance*

Subdivision Dedication. Parkland to be conveyed as part of a residential subdivision application shall be designated as city property on both the preliminary and final plats. At the time the recording plat is submitted, the subdivider shall deliver to the Community Development Department, Research and Development the deed conveying fee simple title of all parkland shown on the final plat approved by the Council, upon recommendation of the Commission. The city shall join as a signatory on the subdivision, but shall have no responsibility to provide any public improvements shown within the approved final plat beyond the general responsibilities the city has to improve and maintain all of its parks.

22.13 Sidewalks and Pedestrianways

22.13.1 *Purpose and Applicability*

(a) *Purpose*

Sidewalks and Pedestrianways are required as a part of subdivision plat approval as outlined within these Regulations, the adopted Thoroughfare Plan, the Parks and Pathway Master Plan, and The Shenandoah Code of Ordinances to help the City of Shenandoah achieve the following:

(1) Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the City of Shenandoah and to implement objectives and strategies of the

Shenandoah Comprehensive Plan.

(2) Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians.

(3) Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities.

(4) Facilitate walking as a means of physical activity recognized as an important provider of health benefits.

(5) Establish minimum criteria for the development of sidewalks and pedestrianways as a part of the pedestrian element of the transportation system within the City and its extraterritorial jurisdiction (ETJ).

(b) *Applicability*

These requirements shall apply to all development within the City and its ETJ.

(c) *Special Exceptions*

The Council, upon recommendation of the Commission, may approve subdivisions without required sidewalks:

(1) In existing single-family residential neighborhoods where sidewalks are not present and have not historically been provided or comply.

(2) In projects where the cost of establishing sidewalks or walkways would be excessively disproportionate to the cost of the associated roadway construction,

(3) In areas with severe topography or other natural constraints that will constrain proper implementation of this Section of the Subdivision Ordinance, or

(4) In situations inherently adverse to pedestrian activity, such as harmful noise, dust creation, and high volume truck traffic, in certain areas, such as agricultural, heavy commercial and industrial developments.

(5) These requirements shall apply to both public and private streets.

(6) Where there is a conflict between the requirements of the Shenandoah Code of Ordinances and this Section , the more restrictive shall generally apply and be required as part of the subdivision plat approval unless a waiver or exception is granted in accordance with Section 25.4 Petition for Waivers or Exceptions.

22.13.2 General Requirements

(a) *General Requirements*

The following general requirements shall apply to the provision of all sidewalks throughout the City and ETJ.

(1) Standards Not Otherwise Specified. Where facility standards and requirements are not otherwise specified within this Section, the design of pedestrian facilities shall follow the City's Code, the SDM and other City Sidewalk Design Standards and applicable State and Federal laws and regulations.

(2) Maintenance. All sidewalks, sidewalk amenities, and landscaping in the right-of-way shall be maintained by the adjoining property owner unless otherwise specifically provided for by public policy.

(3) Location and Width of Sidewalks. Unless noted otherwise:

a. Sidewalks shall be required on all collector and arterial streets as defined in the adopted Thoroughfare Plan and/or the Parks and Pathway Master Plan. Such sidewalks shall be located adjacent to the property line or setback from the curb in accordance with City Plans.

b. Such sidewalks shall be located adjacent to the property line or setback from the curb in accordance with City plans and the SDM. The Director of Public Works and Community Development or their designee may authorize a curvilinear (meandering) sidewalk that is incorporated into a landscaping plan that is approved.

c. Sidewalks shall have a minimum clear path width of six feet (6') in all locations.

d. Sidewalks in high pedestrian traffic areas or pedestrian oriented developments may be required to be wider.

e. Sidewalks shall be located in existing areas to match the width and location of existing walks.

f. Sidewalks shall not be located next to the curb on collectors or arterial streets except when an exception is recommended by the Director of Community Development, or designee and approved by the Council, upon recommendation of the Commission at the time of subdivision Plat approval. Such exception shall be in accordance with Section 25.4 Petition for Waivers or Exceptions and be due to actual physical or topographic constraints.

g. Sidewalks may be required to improve connectivity between subdivisions, to schools, parks, bus stops and retail areas by the Director of Community Development, or designee.

(4) Timing of Improvements. The timing of sidewalk construction shall be as required by this Section unless a Development Agreement between the property owner and the City provides for alternative timing for construction.

(5) Internal Pedestrian Circulation. In addition to sidewalks within the right-of-way, internal pedestrian circulation shall be provided in new development or redevelopment serving any non-residential and at any governmental facility, school, church, or other place of public assembly. Sidewalks shall be installed to connect all buildings to one another and to parking areas and to connect the development to the public street system. All such sidewalks shall be protected from encroachment by parked vehicles.

(6) Pedestrianways, pathways and trails may be required to be dedicated and constructed by the subdivider in new developments when the adopted Parks and Pathway Masterplan indicates a need for such pedestrianway, pathway or trail in accordance with such document. Any proposed pedestrianways, pathways and/or trails whose dimensions are not specified in such the Parks and Pathway Masterplan are subject to the following conditions being met:

a. Where adjacent to private property lines on either side of the pedestrianway, the pedestrianways, pathways and/or trails shall be a minimum of 30 feet in width.

b. Where the pedestrianways, pathways and/or trails are adjacent to a permanently preserved corridor such as a drainage channel or natural open space, the additional pedestrianways, pathways and/or trails width may be reduced to fifteen (15) feet. A minimum of ten (10) feet from the nearest edge of the pedestrianway adjacent to a private property line shall be maintained except where separated from such private property by a wall.

c. If the pedestrianways, pathways and/or trails are located adjacent to a street right of way, the pedestrianways, pathways and/or trails shall be a minimum of fifteen (15) feet in width as measured from the adjacent back of curb.

d. Pedestrianways shall be a minimum of eight feet (8) in width. Pedestrianway surface material shall follow the requirements of the City of Shenandoah Park Development Standards. The City of Shenandoah may elect to contribute to the cost of the pedestrianway if a width wider than eight (8) feet is deemed appropriate for that specific location.

e. Public access points to the pedestrianway shall be provided at regular intervals.

f. Pedestrianways, pathways and/or trails shall have a public right of way, such as a street along a minimum of 75% of one side of the pedestrianway. The public right of way does not have to be contiguous. Where the pedestrianways, pathways and/or trails are adjacent to a wide permanently preserved open space area, utility pedestrianway or public pedestrianway, the amount of public pedestrianway required above may be reduced or eliminated based on the recommendation of the Director of Parks and Recreation and the approval of the Commission.

g. A zone that is a minimum of five (5) feet wide along each side of the pedestrianway shall be improved with a natural non-irrigated landscape treatment.

h. Pedestrianways may be built on power line or other utility pedestrianways, but in cases with pedestrianway lands whose ownership is not fully transferable to the City of Shenandoah, the easement holder or right of way owner must provide legal acceptance allowing the pedestrianway to be built with free public access provided in perpetuity.

i. Pedestrianway standards in the Parks and Pathway Masterplan, these Regulations and in the SDM may be modified by the Commission based upon the recommendation of the Director of Community Development and/or Parks and Recreation.

j. Pedestrianways, pathways and/or trails lighting shall not be required where earthen trails are provided nor where pedestrianways are located in public right-of-way and street lighting is provided. Otherwise lighting may be required by the Director of Community Development and/or Parks and Recreation or designee in accordance with the Parks Master Plan, these Regulations and the SDM.

(7) Sidewalks shall be constructed in compliance with the standards in these Regulations and in the City of Shenandoah SDM.

22.13.3 *Sidewalk Requirements for New Streets*

(a) *Sides of the Street*

Sidewalks shall be required on both sides of all new arterial and collector streets listed in these Regulations or a specifically provided otherwise.

(b) *Timing of Improvements*

(1) Sidewalks shall be provided by the developer at the time of road construction on all new freeway frontage roads, arterial streets, or collector streets, except collector streets within a single-family residential subdivision where homes will front on the collector.

(2) Sidewalks on streets with residential lots fronting on them shall be provided by the

builder as part of the building permit and shall be constructed and inspected prior to final occupancy of the structure. The sidewalk shall match the construction plans for the development and/or the sidewalks on either side of the lot in regards to location and width.

(3) Sidewalks shall be installed by the developer concurrently with other street improvements on local streets where streets abut non-development areas such as common areas, drainage features, utility rights-of-way, or publicly owned areas.

(4) All required sidewalks by the developer in new subdivisions must be constructed within two (2) years of Final Plat approval unless a different schedule is specifically authorized in writing by the Director of Community Development, or designee, for the purpose of coordination with other capital improvement activities.

(c) *Financial Guarantee*

A developer of a new subdivision may contribute the projected cost of the sidewalk construction into an escrow fund or through other form of financial guarantee to delay the time of construction of the sidewalk according to procedures within this Subdivision Ordinance and the Shenandoah SDM.

22.13.4 *Sidewalk Requirements for Existing Streets*

(a) *Sides of the Street*

Sidewalks shall be required on both sides of existing collector streets, arterial streets, and or as specifically provided otherwise.

(b) *Location*

Sidewalks shall be required along block faces of existing local streets where redevelopment is occurring in any of the following categories or combinations of categories:

(1) Designated pedestrian routes in a neighborhood plan, corridor plan, or other small area plan adopted by the City of Shenandoah.

(2) Locations that would connect existing or otherwise required sidewalks by closing gaps of less than two hundred and fifty feet (250').

(3) Locations in which an adjacent property has a public sidewalk along the same block face.

(4) Street frontages in all developments except the following:

a. Developments intended primarily for single-family residential purposes and where sidewalks are not present.

b. Along local and collector streets in developments intended primarily for warehousing, manufacturing, and industrial uses.

c. Developments intended to preserve agricultural activities and open space.

(c) *Required with Street Improvement*

Any land development or subdivision that triggers a requirement for any street improvements along an existing collector street, arterial street, or freeway frontage road shall include sidewalk improvements. The sidewalks shall be provided concurrently by the developer with other street improvements except as otherwise provided in this Section and the Shenandoah SDM.

(d) *Site Plan*

No new or amended Site Plan shall be approved for development on any property in a location

wherein sidewalks are required unless applicable provisions for required sidewalks are included in the Site Plan.

(e) *Permits*

A Certificate of Occupancy, or any other type of final approval for a residential development that does not require a certificate of occupancy, may not be issued until required sidewalks are installed or brought up to applicable standards when there is development activity requiring:

(1) A permit for new construction of a structure other than an accessory structure,

(2) A permit for a major addition to a structure other than an accessory structure, or

(3) A permit for major alterations or repairs to a structure other than an accessory structure.

(f) *Removal Requires Replacement*

An existing sidewalk may not be removed unless a replacement sidewalk is constructed to standards current at the time of removal.

22.13.5 *Waivers and Deviations*

(a) *Waivers*

A complete waiver of the requirement for sidewalks should be rare and allowed only where there are extreme factors. The waiver shall be approved by the Council, upon recommendation of the Commission, at the time of Plat approval upon a favorable recommendation of both the Community Development Director, or designee and the Director of Community Development and shall be documented with supporting data that indicates the basis for the decision. Extreme factors include:

(1) Projects where the cost of establishing sidewalks or walkways would be excessively disproportionate to the cost of the associated roadway construction,

(2) Areas with severe topography or other natural constraints that will constrain proper implementation of this Section of the Subdivision Ordinance, or

(3) Situations inherently adverse to pedestrian activity, such as harmful noise, dust creation, and high volume truck traffic, in certain areas, such as agricultural, heavy commercial and industrial developments.

(b) *Deviations*

Deviations from these requirements and the SDM and other City Sidewalk Design Standards may be allowed by the Director of Community Development, or designee, as part of Site Plan review when necessary due to the physical circumstance of the street or when necessary to accomplish adopted development goals of the City.

(1) The specific nature and justification for any deviation must be documented and authorized in writing by both the Community Development Director, or designee and the Director of Community Development.

(2) Deviations should be minimal and consist primarily of changes to required width of clear path or alignment within the right-of-way.

(3) Deviations shall not allow a minimum clear path width of less than three feet (3').

22.14 Fire Lanes and Fire Department Access

22.14.1 *Reference*

(a) *Reference*

All proposed developments covered by these Regulations must meet the City's adopted Fire Code.

22.15 Easements, Block and Lot Design and Improvement Standards

22.15.1 *General*

(a) *Easements for New Development*

(1) For new development, all necessary on-site easements shall be established on the Final Plat and not by separate instrument, and they shall be labeled for the specific purpose and to the specific entity, if other than the City, for which they are being provided.

(2) Exceptions. Such easements may be permitted to be established by separate instrument only in the following limited circumstances:

a. If requested by the entity providing services with the easement, and

b. If permitted by the Director of Community Development, or designee.

(3) The ownership, maintenance, and allowed uses of all designated easements shall be stated on the Plat. Examples include the following: a water, wastewater or drainage easement, which is dedicated to the City for a water or wastewater line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and fire suppression and emergency medical service providers for access purposes; and an electrical, gas or communications easement, which is dedicated to the specific utility provider that requires the easement; and so on.

(b) *Fencing*

(1) Utility Easement. A wall, fence or screen shall be permitted over any utility easement provided that the easement remains fully accessible to the City for maintenance and repair purposes.

(2) Drainage Easement. A wall, fence or screen shall be permitted over any drainage easement if the water flow within the easement is not adversely affected by the wall, fence or screen.

(3) Removal. In addition to all other remedies provided by this Subdivision Ordinance, the City may summarily remove any wall, fence or screen erected in violation of this section, and the City shall not incur any liability or assume any duty to compensate the owner or replace the wall, fence or screen.

22.15.2 *Lot Area*

(a) *Easements Included*

Lot area shall be computed inclusive of all required public and utility easements. However, the area of required easements on a lot shall in no case exceed one-half of the lot size. If the property owner disputes the total easement area required for any lot, the owner shall submit a written computation of the percentage of the lot occupied by easements to the Director of Community Development, or designee. The Director of Community Development or designee shall, in coordination with affected entities, consider a reduction in the area of

22.15.3 *Blocks - Determination and Regulation of Size*

(a) *Determination Criteria*

The length, width, placement, and shape of blocks shall be determined with due regard to the following:

(1) Provision of adequate building sites suitable to the particular needs of the type of use contemplated;

(2) Zoning and Development Agreement requirements as to lot sizes, setbacks and dimensions (if within the City's corporate limits); and

(3) Convenient access, circulation, control mobility in general and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.

(b) *Streets*

Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices.

(c) *Block Lengths*

Block lengths shall be in accordance with Section 22.7.8 Street Length however, in cases where physical barriers or existing subdivisions creates conditions where it is appropriate that these standards be modified, the length may be increased or decreased (through issuance of an exception by the Council, upon recommendation of the Commission, in accordance with Section 25.4 Petition for Waivers or Exceptions with Plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety. Additional turnarounds may be required midblock as part of the exception process. The Council, upon recommendation of the Commission, may also require the dedication of additional easements through a block to accommodate utilities, drainage or pedestrian access.

22.15.4 *Lots - Determination and Regulation of Size*

(a) *Zoning District Requirements, If Applicable*

Lots shall conform to the minimum requirements of the established zoning district in which they are located, if located within the City's corporate limits.

(b) *Lot Frontage*

All lots shall have at least one boundary abutting either a private or a public street.

(1) Each residential lot in the subdivision shall have a minimum frontage on a public or private street as required by applicable zoning, or twenty-five feet (25'), whichever is greater, unless other provisions have been authorized through planned development approval.

(2) Each non-residential lot shall have a minimum frontage on a public or private street as required by applicable zoning or fifty feet (50'), whichever is greater, unless other provisions have been authorized through planned development approval.

(3) No residential lot frontage shall be allowed on arterial streets, except where the proposed subdivision meets one or more of the following criteria as determined by the Council, upon recommendation of the Commission:

a. Where residential lot frontage is provided from an arterial street on an adjoining property, and the Council, upon recommendation of the Commission,

determines that a public benefit would result from permitting the proposed development to be similarly designed; or

b. Where the only street frontage which may be provided to the residential lots is from an arterial street due to the shape, topography or other physical condition of the property; or

c. Where otherwise an exception is granted by the Council, upon recommendation of the Commission as provided in Section 25.4 Petition for Waivers or Exceptions of these Regulations.

(4) Where residential lot frontage is permitted on an arterial street, the lot(s) shall be designed and dimensioned to permit loop driveways or on-site turnaround facilities so that vehicles head into the arterial street.

(c) *Flag or Panhandle Lots*

Panhandle lots shall be discouraged in residential areas except when, due to unique parcel configuration, it is the only way to develop the property, and it shall be considered an exception. It shall be discouraged in commercial areas except when it is part of a master planned commercial center or commercial unit development with cross access easements allowing additional access. The Council, upon recommendation of the Commission, must decide whether to authorize an exception allowing the flag or panhandle lots in accordance with Section 25.4 Petition for Waivers or Exceptions at the time of Preliminary Plat approval. Such lots shall otherwise conform to the Shenandoah Design Manual (SDM), and shall be based on the following design requirements.

(1) All lots and structures shall be arranged so the structures and their addresses are visible from the public street from which the lot takes access.

(2) Residential Uses. The maximum length of the panhandle shall be one hundred feet. The minimum width of the panhandle shall be twelve feet to serve one dwelling unit. A maximum of two dwelling units may jointly use a panhandle, provided that the minimum cumulative width of the panhandle is twenty-four feet. Maintenance of the common driveway, in cases of joint use, shall be ensured by deed restrictions and a note of such deed restrictions shall be placed on the face of the Plat.

(3) Non-residential Uses as part of Commercial Unit Development or Master Planned Commercial Development. The minimum width of the panhandle shall be twenty-five feet. In case of joint use, the minimum cumulative width of the panhandle shall be thirty-five feet. Maintenance of the common driveway, in cases of joint use, shall be assured by deed restrictions and cross access easements shall be provided across such lots for additional access and a note of such deed restrictions shall be placed on the face of the Plat.

(d) *Lot Depth*

The minimum depth of each lot shall conform to requirements of the zoning district in which the lot is located, if applicable. All lots that are not required to adhere to zoning district requirements shall conform to the following:

(1) Where the rear of any lot abuts a railroad, public recreational facility, arterial street or freeway, the minimum depth shall be one hundred and twenty feet (120').

(2) Where the rear of any residential lot abuts a non-residential zoning district, the minimum depth shall be one hundred and twenty feet (120').

(e) *General Shape and Layout*

The size, width, depth, shape and orientation of lots, and the minimum building setback lines

shall conform to standards set forth herein or within the appropriate zoning district, as applicable. Lots shall be designed to assure the adequate provision of public facilities and the purpose of these subdivision regulations taking into consideration the location and size of the subdivision and the nature of the proposed uses.

(f) *Irregularly-Shaped Lots*

(1) Irregularly shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district if within the City's limits.

(2) Such lots shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement.

(3) The rear width of such lots shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present, and there shall be a minimum twenty (20)-foot alley frontage.

(4) In general, triangular, severely elongated (in excess of a three-to-one (3:1) depth-to-width ratio) or tapered, or flag lots shall not be permitted.

(5) Keyed Lots and Irregular Lots.

a. All keyed lots and irregular lots shall meet the minimum width requirements in Table.

Table 22.15.4 (a)
Minimum Lot Widths

Type of Lot	Residential Lots (feet)	Non-residential Lots (feet)
Keyed	22	45*
Irregular	30	45**
Corner	45	

*Keyed lot frontages in non-residential districts may be reduced to a minimum of 22 feet if the proposed Plat reflects an appropriately dimensioned easement for joint driveway access by two abutting lots.
** Within subdivisions, or portions thereof, intended exclusively for patio home or townhouse development, more narrow lot widths permitted by zoning regulations (where applicable) shall be applicable.
NOTE: All requirements of a zoning district, if applicable, shall be met. If the requirements herein and those of the zoning district conflict, the zoning district regulations shall control.

b. Any keyed lot or other irregularly shaped lot shall include no portion that measures less than the minimum width required by zoning regulations, if applicable.

(6) The City reserves the right to disapprove any lot that, in its sole opinion, will not be suitable or desirable for the purpose intended or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

(g) *Side Lot Line Configuration*

Side lot lines shall be at ninety degree (90□) angles or radial to street right-of-way lines to the greatest extent possible. The City reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the

purpose intended, or which is not attractively or appropriately oriented toward its street frontage.

(h) *Double Frontage Lots*

(1) Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from arterial streets, or to overcome a specific disadvantage or hardship imposed by topography or other factors.

(2) Where lots have double frontage, are not screened, and/or are provided access directly onto an arterial street, building setback lines shall be established for each street side.

(3) Lots in single-family residential districts and lots measuring less than one hundred feet (100') wide and located within the Multiple Family Residential (MF) zoning district may abut a street on both the front and rear boundaries, but only under the following conditions:

a. One lot boundary must abut an arterial street or freeway.

b. A reservation or easement at least ten feet (10') wide, across which there shall be no right of access, shall be designated beside the abutting arterial street or freeway.

c. The Council, upon recommendation of the Commission, may require that a parkway at the rear of a double frontage lot be landscaped or other aesthetic treatment be provided by the subdivider, subject to the approval of the Director of Community Development, or designee, to provide a visual and physical separation between the development and the street.

(4) Residential lots, where double frontage is permitted, shall adhere to the following:

a. The lot does not back onto any local, sub-collector, or collector street within a residential area or neighborhood.

b. The lot does not have more than one-half (1/2) of its perimeter boundaries along streets.

(i) *Extra Depth and Width in Certain Cases*

Additional depth shall be required by the Council, upon recommendation of the Commission, when a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil or gas pipeline, an electric transmission line, an arterial street, an industrial area, or other land use that has a depreciating effect on the residential use of the property and where no marginal access street or other street is provided at the rear of the lot. A depth in excess of one hundred and forty feet (140') shall not be required. Where a lot sides to any of the uses listed in this subsection, additional width shall be required by the Commission, but a width in excess of seventy-five feet (75') shall not be required.

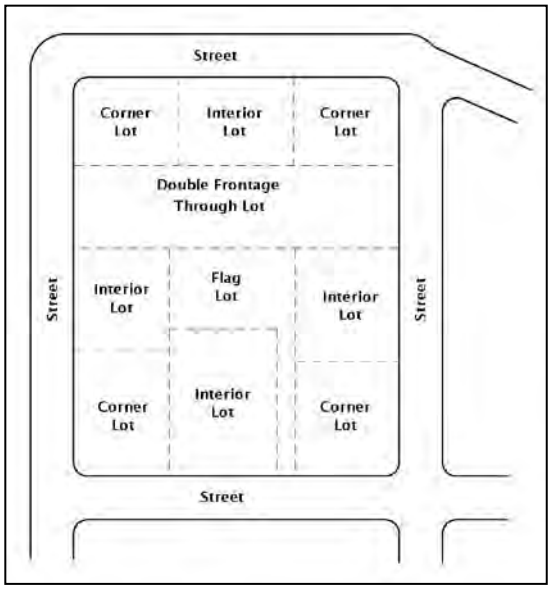


Illustration 22.15.4 a Types of Lots

(j) *Lots Adjacent To or In Floodplains*

Subdivision of property in a designated

floodplain must meet the requirements for floodplain management in the City's adopted Flood Hazard Prevention Ordinance and/or Section of the City Code, as applicable.

(k) *Building Lines*

Building Lines. Front building lines shall be shown for all lots on all Plats submitted for land within the City's ETJ, and shall be as follows:

(1) The minimum building setback from lot boundaries adjacent to street rights-of-way shall be as follows in subsection "a" below if zoning regulations do not apply, except as specified in subsection "b."

a. Setback from boundary adjacent to freeway (without frontage road in place): Forty feet (40').

b. Setback from boundary adjacent to freeway (with frontage road in place): Thirty feet (30').

c. Setback from boundary adjacent to arterial or collector street: Thirty feet (30').

d. Setback from boundary adjacent to subcollector or local street: Twenty-five feet (25').

e. For new lots created by resubdivision of land originally subdivided before 1985, the minimum building setback from street-side boundaries shall be the same as that indicated on the most previously recorded Plat or Replat of the particular lot(s) under consideration. In all cases, however, there shall be required a front yard of not less than twenty feet (20') and an exterior side yard of not less than fifteen feet (15'), where no building setback lines are represented on a previously recorded Plat or Replat.

(l) *Remnants*

No remnants of land shall be allowed in the subdivision that does not conform to the lot requirements of the Shenandoah zoning ordinance, except where proposed easements, rights-of-way or open space areas are approved by the Council, upon recommendation of the Commission.

(m) *Divided Lots Prohibited*

A lot shall not be divided by the corporate limits boundary, state line, or by another lot, street or alley or any other property.

22.15.5 *Monuments and Markers*

(a) *Placement*

The location of all monuments shall be in accordance with the SDM and is subject to approval by the Director of Community Development, or designee.

22.16 Additional Requirements

22.16.1 *Postal Delivery Service*

(a) *Requirement*

Every subdivision shall provide for postal delivery service. The subdivider shall coordinate with the United States Postal Service in determining the type of delivery service for the proposed subdivision. In all cases, the type and location of delivery service shall be subject to the approval of the United States Postal Service.

(b) *Neighborhood Delivery and Collection Box Units*

(1) General Provisions.

a. Where postal service to lots within a subdivision is approved using neighborhood delivery and collection box units, the subdivider shall provide for unit locations within dedicated right-of-way or easements. Subdivisions submitted as a Preliminary Plat shall indicate the proposed neighborhood delivery and collection box unit locations. The subdivider shall place a note on the final and recording Plat of the subdivision indicating that the lots will be served using neighborhood delivery and collection box units where appropriate. Approved neighborhood delivery and collection box unit locations shall be shown on the subdivision improvement plans.

b. Where the sidewalk is installed adjacent to and parallel with the property line, the neighborhood delivery and collection box unit shall be located within the street right-of-way between the curb and the sidewalk.

c. Where the sidewalk is installed adjacent to and parallel with the curbline, the neighborhood delivery and collection box unit shall be located within a public easement on the property side of the sidewalk. The minimum area of the public easement to accommodate the placement of the neighborhood delivery and collection box unit shall be six feet wide by six feet long. The public easement shall provide access for the installation, use and maintenance of the neighborhood delivery and collection box unit.

d. The United States Postal Service shall furnish and install the neighborhood delivery and collection box units.

e. Neighborhood delivery and collection box units shall be relocated by the United States Postal Service as necessary to accommodate street widening.

(2) Location. Neighborhood delivery and collection box units shall be placed in a location that is convenient, accessible, safe and efficient to all lots in the subdivision. The following criteria shall be used to determine the location of neighborhood delivery and collection box units:

a. Shall be located in an area with a slope of no more than one-quarter inch per foot;

b. Shall be located in an area that is illuminated by street lighting;

c. Shall not be located on an arterial street.

(3) Permitted Uses. Use of the area on or above the neighborhood delivery and collection box unit concrete base shall be restricted to only those allowed by the United States Postal Service.

22.16.2 *Subdivision Identification Signs*

(a) *General Provisions*

Where a subdivider proposes an identification sign within the subdivision, the following shall be required in addition to the requirements contained in Section 11.0 Existing Chapter 90, Sign Ordinance.

(1) No more than two subdivision identification signs shall be permitted per subdivision entrance;

(2) No portion of a subdivision identification sign shall be within a public right-of-way or public easement, except where authorized by special privilege license granted by

Council;

(3) The maximum area of subdivision identification signs shall be forty-eight square feet per subdivision entrance. The subdivision identification sign shall only include the name, logo or other identification of the subdivision or project;

(4) The location of subdivision identification signs shall be subject to the approval of the Director of Community Development, or designee, and shall be shown on the subdivision improvement plans.

(5) The subdivider shall secure required city permits for the placement of the subdivision identification sign(s) on the property;

(6) Where a subdivision identification sign is proposed, restrictive covenants shall be submitted with the subdivision that provide for the formation of a neighborhood association that shall provide for the perpetual maintenance of the sign. As an alternative, if an improvement district such as a Public Improvement District has been created to maintain public improvements and amenities, it can also maintain the sign.

22.16.3 *Community Facilities*

(a) *Family Location*

Where the location of a community facility, as defined, within a subdivision is needed based on The Plan for Shenandoah, and is recommended by the Commission, the subdivider shall coordinate with the city to locate and assist in the acquisition of land for the facility, in accordance with Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement.

22.17 Alternative Design Standards

22.17.1 *Purpose*

(a) *Purpose*

It is the purpose of this Section to provide for the consideration of subdivision improvement designs which differ from the conventional design standards as outlined within these Regulations of the Subdivision Ordinance, but which are based upon sound engineering practice. In this context, “subdivision improvements” shall mean physical improvements such as streets, water and wastewater, as well as any other infrastructure element of a proposed development. Alternative designs shall not be accepted for the layout of lots.

22.17.2 *Approval*

(a) *Based on Engineering*

Decisions regarding the design of various physical improvements in a subdivision should be based on engineering studies. Thus, while this Code provides standards for design, the regulations are not a substitute for sound engineering judgment. Therefore, a licensed engineer may submit alternative designs to be reviewed and considered by the Director of Community Development, or designee.

(b) *Relationship to Standards in Section 22.7 Roadways*

If the proposed alternative design is approved by the Director of Community Development, or designee, then the applicable provisions of Section 22.7 Roadways shall be deemed to have been met. If the proposed alternative design standards are not approved by the Director of Community Development, or designee, then the standards contained within Section 22.7 Roadways shall apply.

22.17.3 *Appeals*

(a) *City Council, upon recommendation of the Planning and Zoning Commission*

If a proposed alternative design is rejected by the Director of Community Development, or designee, the subdivider may appeal the decision to the Commission.

(b) *Decision.*

The decision of the Council, upon recommendation of the Commission, shall be final based on sound engineering principals,

22.18 Alternative Subdivision Designs

22.18.1 *Purpose*

(a) *Purpose*

It is the purpose of this Section to provide for the consideration of alternative subdivision designs, sustainable and form based subdivisions, infill developments and alternative improvement designs and engineering which differ from the conventional design standards as outlined within these Regulations of this Section, but which are based upon sound engineering, planning and urban design practice. Infill Development provisions would encourage the development of smaller, isolated tracts of land in the inner city or the area surrounding it that have been passed over by development and have remained vacant for years, and may include platted or unplatted land. "Alternative Subdivision Improvements" mean alternative designs for physical improvements such as streets, water and wastewater, as well as any other infrastructure element of a proposed development.

22.18.2 *Infill Development*

(a) *Intent and Purpose*

The following guidelines are designed to meet the intent and purpose of the infill sections, requirements and references in the Zoning Ordinance to reinvigorate existing communities and neighborhoods and support new compact, single or mixed-use development. This section is intended to reduce barriers to infill development, and to provide incentives such the use of flag lots and private drives, reduced drainage standards on smaller parcels, reduced fees and participation in or reduced requirements for infrastructure.

(b) *Application*

An application for an Infill Development Procedure shall be submitted at the time of Preliminary Plat application. The Infill Development subdivision design will be reviewed under the provisions outlined in the Zoning Ordinance under the Alternative Subdivision Design provisions for Infill Development, as well as in Section 21.3 Preliminary Plats, of this Section, as amended and provisions outlined in this section. The Infill Subdivision Improvement Plans and applicable incentives must be submitted, requested, reviewed and approved prior to Final Plat approval of an Infill Development and recordation. All applications shall be submitted on a form supplied by the Community Development Department with the required information as stated on the application form and meeting the administrative submission requirements available in the Community Development Department.

(c) *Designated Areas*

The provisions of this section shall apply to areas designated as a Planned Development for Infill Development in the Zoning Ordinance.

(d) *Zoning Districts and Related Single-family Lot Sizes*

The Planned Development zoning districts in which the Infill Development procedure may be used and the Infill Development standards that may be permitted for single-family uses through the use of the procedure shall be as allowed by the Infill Development provisions of the Zoning Ordinance.

(e) Incentives

In addition to the incentive of smaller lots and higher density in accordance with the Zoning Ordinance, the following incentives are available in developments meeting the requirements of this Section:

(1) Reduced Fees. The City Administrator or designee shall waive the development fees associated with the subdivision review and approval process for qualified projects. The Shenandoah Water Utility may waive one or more fees associated with water and wastewater service, including hookup fees, for qualified projects.

(2) Replat Fees and Approval. While replatting laws of the State of Texas must be observed, replats with less than four (4) lots may be administratively approved in accordance with these Regulations without a public hearing and the fees may be waived as described above.

(3) Infrastructure Cost Participation. The Council may choose to pay for additional participation in public infrastructure beyond what is required by these Regulations for a qualified Infill Development. The determination by the Council shall be made prior to the approval of the final plat and may include but is not limited to:

a. Construction, repair or replacement of public streets, curbs and gutters or alleys.

b. Construction, repair or replacement of sidewalks, street lighting or other pedestrian improvements.

c. Construction, repair or replacement of storm drainage facilities.

(4) Water and Wastewater. The Shenandoah City may choose to pay for additional participation in public infrastructure by these Regulations for a qualified Infill Development.

(5) Stormwater and erosion control. Infill projects that create less than 10,000 square feet of new impervious surface are exempt from the stormwater requirements, excluding stormwater utility fees.

22.18.3 *Reduced Roadway and Lot Frontage Requirements*

(a) *General Requirements*

(1) Flag Lots and Reduced Roadway and Lot Frontage Requirements. Public streets serving single-family residential lots may be replaced by private roadways (access lanes) 20 feet wide within a minimum 30-foot easement used to serve up to eight (8) lots.

(2) Such roadways and access lanes shall be shown in an easement dedicated to the property owners and public agencies that is designated by a note on the recorded plat as a “perpetual reciprocal easement.”

(3) Such private access lane may be allowed with designation as an Infill Development or in other single-family residential zoning districts if the Council, upon recommendation of the Commission, finds:

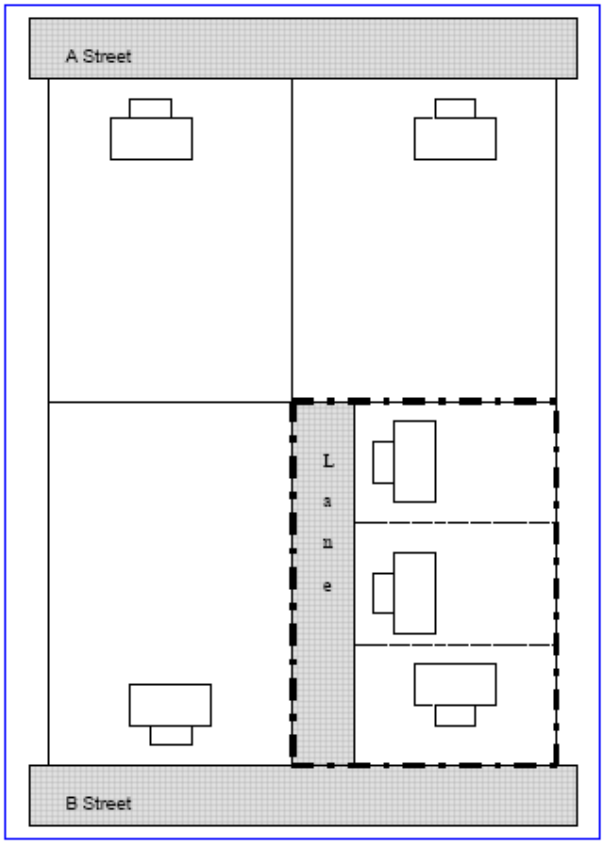
a. Physical conditions preclude development of the street, such conditions may include but are not limited to topography or likely impact to natural resource areas such as drainage ways, wetlands, ponds, streams, channels, rivers, lakes

or upland wildlife habitat area or are source on the National Wetland Inventory or under protection by state or federal law;

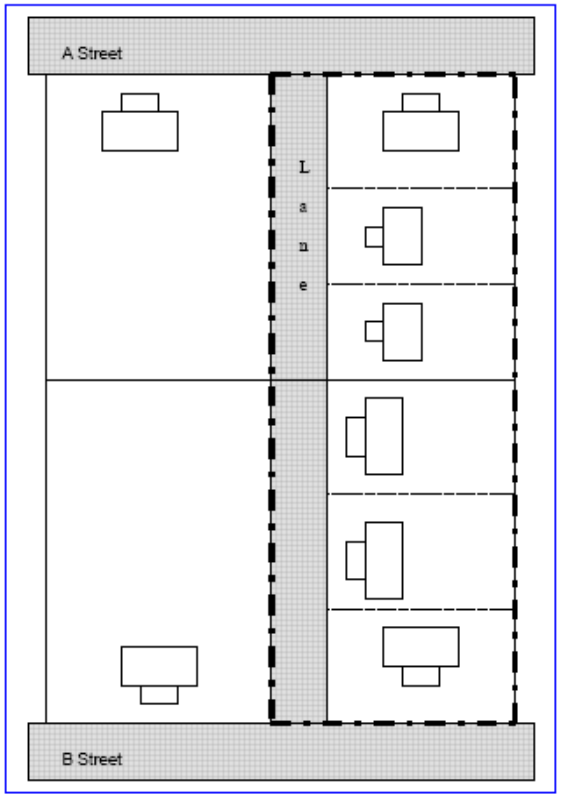
b. Buildings or other existing development on adjacent lands including previously subdivided but vacant lots or parcels physically preclude a public street now or in the future considering the potential for redevelopment.

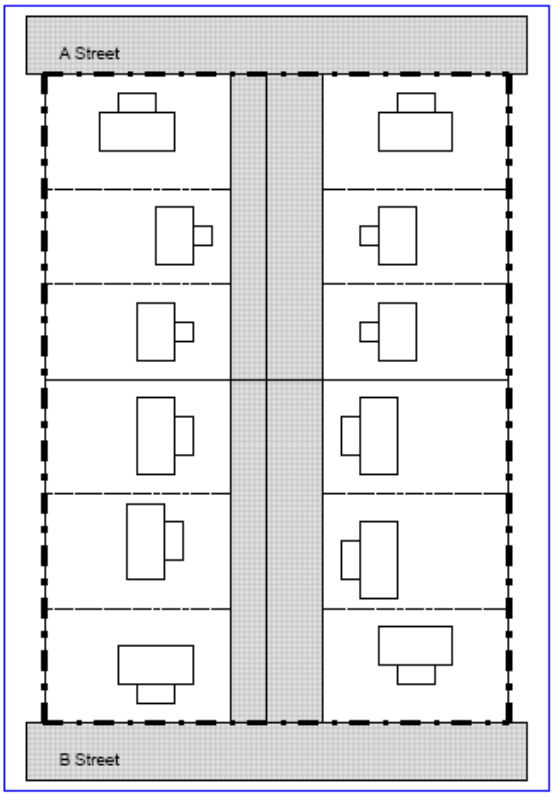
c. If the applicant can demonstrate that a future street cannot be made to serve the property, then the application for plat approval shall be processed subject to subdivision standards.

(4) For lots or parcels that do not extend from one street to another, the following diagram indicates how up to four (4) lots may be platted fronting on a 20-foot wide access lane that extends up to 200 feet in depth. Lanes in excess of 200 feet must be 24 feet wide with an additional 4 feet of easement and be designated as a fire lane.

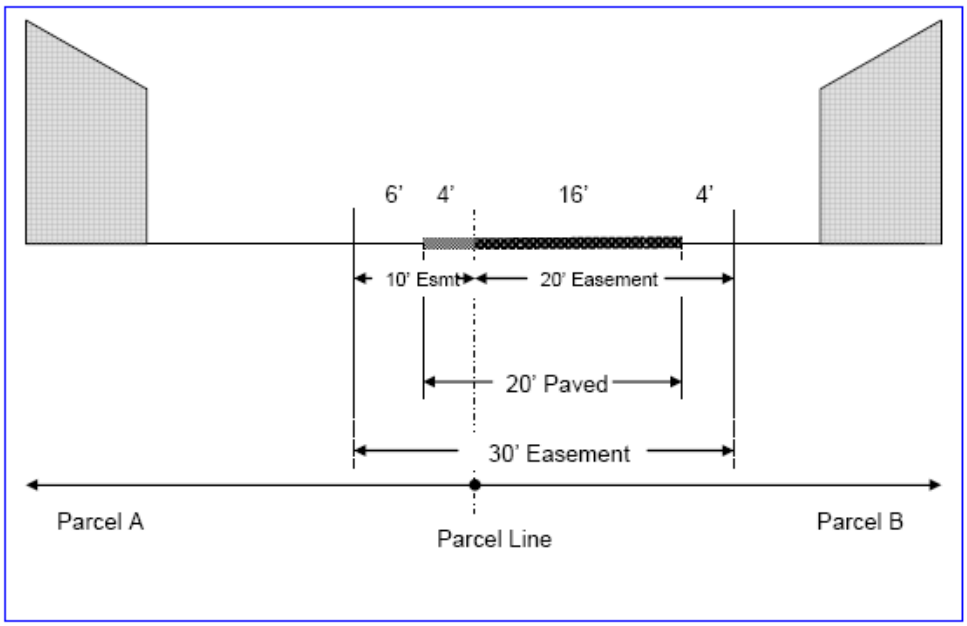


(5) For lots or parcels that do extend from one street to another, the following diagram indicates how up to eight (8) lots may be platted fronting on a 20-foot wide access lane that extends up to 400 feet in depth.

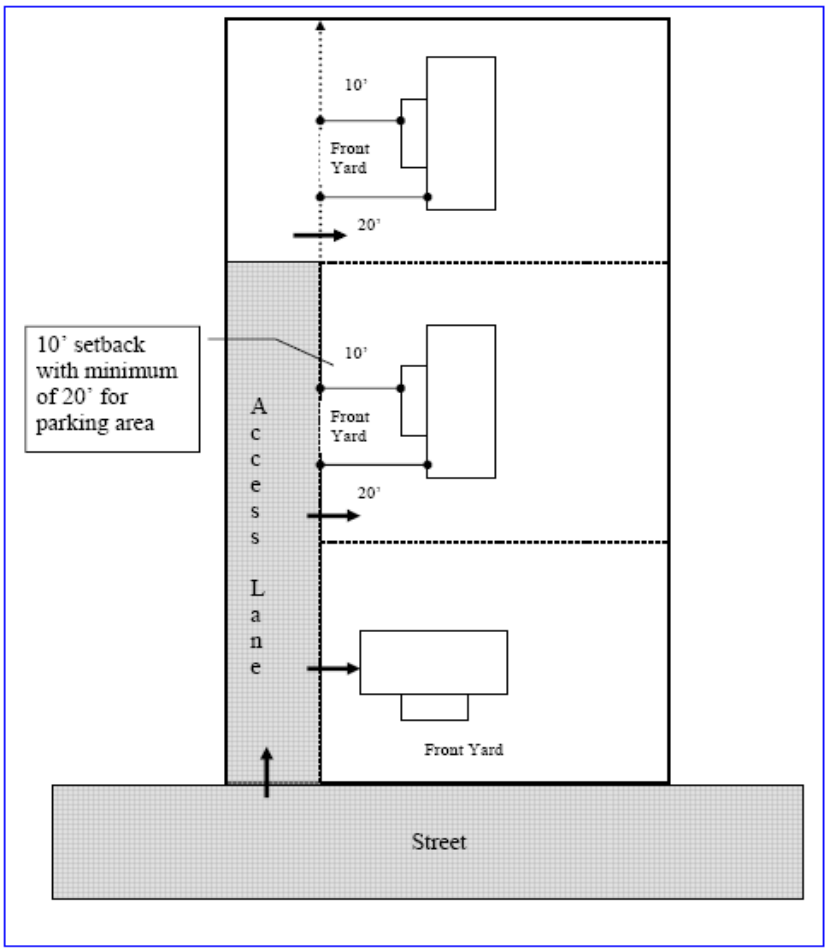




(6) The following diagram indicates how two separately owned adjoining parcels or lots may provide or be sequenced to provide 30 feet of easement and 20 feet of access lane.



(7) The following diagram indicates how lots will front on the access lane and where the front yard and parking setbacks are measured from. (Numbers are for example purposes only. The Zoning Ordinance has the actual dimension requirements.)



22.18.4 *Alternative Subdivision Improvement Design*

(a) *Intent*

This section contains the regulations for the Alternative Subdivision Improvement Design procedure. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in these Regulations, which are incorporated as part of this section by reference. It is in the intent of the Alternative Subdivision Improvement Design procedure to allow one or more alternative improvement designs to those required in these Regulations and the SDM to be utilized in a comprehensive manner throughout a proposed development, provided the improvements meet the intent and have the same or higher level of service or adequacy of the original required improvement. It is not the intent of the Alternative Subdivision Improvement Design procedure to allow an inferior improvement to the original one required by these Regulations for the purpose of reducing costs.

(b) *Application*

An application for the Alternative Subdivision Improvement Design Procedure shall be submitted at the time of Preliminary Plat application, along with a Subdivision Improvement Plan showing the proposed changes. Subdivision Improvement Plans in accordance with these Regulations with the proposed Alternative Subdivision Improvement Design clearly designated shall be provided in order for the engineering staff to make an evaluation of the proposal. Engineering or other studies should be provided to establish that the proposal meets the intent of these Regulations and provides the same level or greater of protection, service or adequacy of the original requirement. The Alternative Subdivision Improvement design will be reviewed under the provisions outlined in Section 21.3 Preliminary Plats and Section 21.8 Construction Plans and Management, as amended, as well as provisions outlined in this section. All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form and meeting the administrative submission requirements available in the Planning Department.

(c) *Based on Engineering*

Decisions regarding the design of various physical improvements in a subdivision should be based on engineering or other studies. Thus, while this Code provides standards for design, the regulations are not a substitute for sound engineering judgment. Therefore, a licensed engineer may submit alternative designs to be reviewed and considered by the Director of Community Development, or designee.

(d) *Relationship to Standards in Section 22.7 Roadways*

If the proposed alternative design is approved by the Director of Community Development, or designee, then the applicable provisions of Section 22.7 Roadways shall be deemed to have been met. If the proposed alternative design standards are not approved by the Director of Community Development, or designee, then the standards contained within Section 22.7 Roadways shall apply.

(e) *Relationship to all other Improvement Standards*

If the proposed Alternative Subdivision Improvement Design is determined to meet or exceed the standard for such improvement contained in these Regulations and the SDM and approved by Council, upon recommendation of the Commission, and Director of Community Development, or designee, then the applicable provisions of these Regulations shall be deemed to have been met. If the proposed alternative design standards are determined not to be the equivalent of the standard contained in these Regulations and not approved by the Director of Community Development, or designee, then the standards contained within these Regulations shall apply.

22.18.5 *Form Based/Smart Code Subdivisions*

(a) *Standards*

The Shenandoah Zoning Ordinance will set forth standards for form based/smart code subdivisions as part of an approved Planned Development for any form based/smart code initiative. Applicants for a Form Based/Smart Code subdivision are required to utilize the standards contained in the approved Planned Development or to propose standards contained in nationally recognized models of form based or smart codes that are approved as part of a Planned Development District.

22.18.6 *Approval*

(a) *Infill Development*

The Council, upon recommendation of the Commission, as part of the Preliminary Plat Approval, may approve, approve with conditions or deny the proposed Infill Development, provided it

meets all the requirements in this Section. Since the applicant is assured of approval of a Preliminary Plat that meets the requirements of these Regulations, the Council, upon recommendation of the Commission, is not obligated to approve an Infill Development. It is the applicant's obligation to document to the Commission and Council that the Infill Development meets the intent of this section and is a better quality development than would otherwise be developed. Replats of existing lots shall meet the requirements of Texas State Statute. If the proposed Infill Development Plat is approved, or approved with conditions by the Council, upon recommendation of the Commission and Director of Community Development, or designee, then the applicable provisions of these Regulations shall be deemed to have been met. If the proposed Infill Development is not approved by the City Council, upon recommendation by the Commission, then the standards contained within these Regulations shall apply.

(b) *Alternative Subdivision Improvement Design*

(1) Alternative Subdivision Improvement Designs that either alter the road standards and applicable provisions in Section 22.7 Roadways or the various other physical improvement standards contained in these Regulations or in the SDM, may be approved by the Council, upon recommendation of the Commission and Director of Community Development or designee, as part of the Preliminary and/or Final Plat approval, if the Council, Commission, and the Director of Community Development, or designee, agree with the engineering studies provided as part of the submission showing that the proposal meets the intent of these Regulations and provides the same level or greater of protection, service or adequacy of the original requirement.

(2) Since there are already acceptable standards for subdivision improvements and the applicant is assured of approval of a Preliminary Plat that meets the requirements of these Regulations, the Council is not obligated to approve an Alternative Subdivision Improvement Design. It is the applicant's obligation to document to the Council and Commission that the Alternative Subdivision Improvement Design meets the intent of this section and is a better quality development than would otherwise be developed.

If the proposed Alternative Subdivision Improvement Design is approved, or approved with conditions by the Council, upon recommendation of the Commission and Director of Community Development, or designee, then the applicable provisions of these Regulations shall be deemed to have been met. If the proposed Alternative Subdivision Improvement Design is not approved by the Commission, then the standards contained within these Regulations shall apply.

(c) *Misrepresentation of Facts*

Misrepresentation of facts of any kind shall result in the denial or revocation of the approval or conditional approval of the preliminary plat and/or final plat.

Section 23.0 **Authority of Decision-Makers**

23.1 General Provisions

23.1.1 *Source of Authority*

Need to coordinate with Zoning - Authority under this Subdivision Ordinance shall be vested in and delegated to the officials and decision-makers designated in this Section 3, under the City's charter, the constitution and laws of the state of Texas, and the City Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Subdivision Ordinance to any authority conferred upon the officials and decision-makers under the City's charter, the constitution or laws of the state of Texas, or the City Code, or the failure to identify in these Regulations authority conferred by other provisions of this Subdivision Ordinance, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

23.1.2 *Implied Authority*

The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Subdivision Ordinance to the extent the implied authority is not in conflict with the expressly delegated authority.

23.1.3 *Limitation on Authority*

(a) *City Policy*

It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction are as stated in this Subdivision Ordinance, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.

(b) *Representations Concerning Future Action on Application or Legislative Action*

No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the Council, shall have the authority to make representations to a property owner concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the Council, on any application or legislative action that has yet to be filed or is pending before the City for decision. An official may, however, upon request of a person, convey information concerning that official's position on a pending application in accordance with procedures established in this Subdivision Ordinance. No person is entitled to rely upon any representation made by an official in breach of this Subsection, and each and every such representation shall be deemed in violation of the policy of the City, and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.

(c) *Effect of City Approval*

The City’s approval of applications, plans, designs, plats or any other documents requiring City approval under the standards and procedures of the Subdivision Code does not guarantee or assure that the development of the property will prevent, minimize, or mitigate harm to adjoining properties. The City’s approval does not permit the violation of any city or state law. A developer who undertakes development activities shall not rely on the City’s approval of an application as ensuring that the development activities will not result in harm to adjoining properties. Additionally, the City’s approval does not excuse or release the developer from compliance with all applicable city ordinances. The regulations contained in the Subdivision Code

constitute an exercise of the City's governmental authority, and approval of an application shall not give rise to any liability on the part of the City or its officers, agents, and employees. It is the developer's responsibility to ensure that any applications, plans, designs, plats or any other documents required to be submitted under the standards and procedures of the Subdivision Code comply with all provisions of the City ordinances and state laws, whether herein specified or not.

(d) *No Waivers*

Except as expressly provided for in this Subdivision Ordinance, no official, board, commission of the City, or the Council, shall have authority to waive any requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Subsection shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approval, or reconsideration of a legislative decision.

23.1.4 *Conflict in Authority*

(a) *Internal Inconsistency*

Whenever one or more provisions of this Subdivision Ordinance are in apparent conflict, the provisions shall be construed, if possible, so that effect is given to each. If the conflict is between a general provision and a specific provision, and the conflict is irreconcilable, the specific provision shall prevail as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision should prevail.

(b) *Incomplete Provisions*

Whenever a specific standard or procedure of this Subdivision Ordinance is incomplete when applied in isolation to an application or development activity, such standard shall be supplemented by any general or specific provision of this Code, the City Code, or the City Charter in order to give effect to the incomplete provision.

23.2 Responsible Officials

23.2.1 *Responsible Official Designated*

(a) *Responsible Official*

The Responsible Official shall be the Director of a designated City department as contained in the official list of City Administrator designees available on the City of Shenandoah website and in the Planning Department, who is assigned responsibility under this Subdivision Ordinance for taking the following actions with regard to a particular type of application or relief petition authorized under this Subdivision Ordinance:

(1) Accepting the application for submittal, filing and processing the application;

(2) Reviewing and making recommendations concerning the application or petition;

(3) Seeking advice of other City departments and coordinating any recommendations from such departments concerning the application or petition;

(4) Initially deciding the application or petition, where so authorized;

(5) Determining a request for exemption;

(6) Preparing reports to and advising any board, commission or the Council that has responsibility for making recommendations on or deciding the application or petition;

(7) Promulgating additional or modified policies, standards and administrative rules for adoption by the Council that apply to the application or petition;

(8) Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and

(9) Taking all other actions necessary for administration of the provisions of this Subdivision Ordinance with respect to the application or petition.

(b) *Specific Duties*

The specific duties of the Responsible Official shall include those authorized under the procedures applicable to all types of applications pursuant to this Subdivision Ordinance, those authorized under the provisions governing procedures for deciding particular applications under Section 3 and 4 of this Subdivision Ordinance, and those authorized under relief procedures pursuant to Section 5 of this Subdivision Ordinance.

(c) *Implied duties*

The responsible officer shall have all implied duties necessary and appropriate for the administration of these Regulations.

(d) *Delegation*

The Responsible Official may delegate the official's authority under this Code to subordinate officials, who shall thereupon be deemed the Responsible Official for purposes of carrying out the delegated duties.

23.2.2 *Community Development Director*

(a) *Responsible Official*

The Community Development Director or City Administrator designee is the responsible official for the following types of applications and relief petitions:

(1) Petition for amending the Comprehensive Plan;

(2) Application for a Land Study, Preliminary Plat, Final Plat, Minor Plat, and Replat;

(3) Appeal of a decision on any application for which the Director is the Responsible Official;

(4) Alternative Subdivision Designs, exception or waiver petition for any application for which the Director is the responsible official;

(5) Vested rights petition for any decision where the Director is the Responsible Official for the application for which the vested rights petition is filed;

(b) *Initial Decision-Maker*

The Community Development Director or City Administrator designee is the initial decision-maker for the following types of applications and relief petitions, subject to appeal as provided in this Subdivision Ordinance:

(1) Application for a Minor Plat or Replat of four or less lots as authorized by state statute;

(2) Application for an Amending Plat;

(3) Vested rights petition for any decision for which the Community Development Director or City Administrator designee is the initial decision-maker.

(c) *Implied duties*

The Community Development Director shall have all implied duties necessary and appropriate for the administration of these Regulations.

23.2.3 *Director of Community Development*

(a) *Responsible Official*

The Director of Community Development is the Responsible Official for the following types of applications and relief petitions (except as provided):

(1) Application for approval of construction and engineering plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;

(2) Application for a Site Preparation Permit;

(3) Application for a Floodway Development Permit;

(4) Appeal of a decision on any application for which the Director is the Responsible Official;

(5) Alternative Subdivision Designs, exception or waiver petition for any application for which the Director of Community Development is the responsible official;

(6) Vested rights petition for any decision where the Director of Community Development is the Responsible Official for the application for which the vested rights petition is filed; and

(7) Petition for relief from a dedication or construction requirement in accordance with Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement and other provisions of this Subdivision Ordinance.

(b) *Initial Decision-Maker*

The Director of Community Development is the initial decision-maker for the following types of applications and relief petitions, subject to appeal as provided in this Subdivision Ordinance:

(1) Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;

(2) Application for a Site Preparation Permit; and

(3) Vested rights petition for any decision for which the Director of Community Development is the initial decision-maker.

(c) *Implied duties*

The Director of Community Development shall have all implied duties necessary and appropriate for the administration of these Regulations.

23.2.4 *Building Official*

(a) *Responsible Official and Initial Decision-Maker*

The building official is the Responsible Official for and shall initially decide the following types of applications:

(1) Application for a Building Permit; and

(2) Application for a Certificate of Occupancy;

(b) *Implied duties*

The Building Official shall have all implied duties necessary and appropriate for the administration of these Regulations.

23.2.5 *Parks Director*

(a) *Responsible Official and Initial Decision-Maker*

The Parks Director is the Responsible Official for and shall initially decide the following types of applications:

(1) Park fee decision.

(2) Acceptable Park Dedications

(3) All other decisions authorized in Section 22.12 Parks and Open Space, to be decided by the Parks Director.

(b) *Implied duties*

The Parks Director shall have all implied duties necessary and appropriate for the administration of these Regulations.

23.2.6 *Reserved*

23.2.7 *Stormwater Administrator*

(a) *Responsible Official and Initial Decision-Maker*

The Storm Water Administrator shall be the Responsible Official and initial decision maker for applications pertaining to drainage plans and other drainage decisions as may be required in the Shenandoah Code of Ordinances, the SDM and Section 22.11 Stormwater Management Requirements. The Stormwater Administrator is the Responsible Official for and shall initially decide the following types of applications:

(1) Floodway Development Permit;

(2) A Drainage Plan.

(3) All other decisions authorized in Section 22.11 Stormwater Management Requirements, to be decided by the Stormwater Administrator.

23.2.8 *Other City Officials*

The City Administrator, City Attorney and any other official delegated responsibilities under this Subdivision Ordinance are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

23.3 Planning and Zoning Commission

23.3.1 *Reference to City Charter*

The Commission shall have the powers and duties as provided for in the Shenandoah Municipal Code, the Shenandoah Zoning Ordinance, including Section 6.2, Planning and Zoning Commission the Charter of the City of Shenandoah, Texas and as authorized by Chapters 211 and 212 of the Texas Local Government Code.

23.3.2 *Structure of Planning and Zoning Commission*

(a) *General*

The members of the Commission (also referred to as the Commission) are appointed by the Council, in accordance with the City Charter, the Shenandoah Municipal Code, and the Shenandoah Zoning Ordinance.

(b) *Organization*

The Commission Organization and Rules of Procedure, including Membership, Officers, Term, Meetings and Quorum shall be on ordinance with Section 6.2 Planning and Zoning Commission,

of the adopted Zoning Ordinance, as amended.

(c) *Authority*

In addition to the duties authorized in Section 6.2 of the Planning and Zoning Commission, the Commission is vested with the authority to review, and recommend to the Council the approval, conditional approval and/or disapproval of applications for the subdivision and resubdivision of land as provided in these Regulations. Provided, however, that administrative review and approval by the Community Development Director or City Administrator designee shall be permitted under certain circumstances pursuant to this subdivision ordinance.

(1) The City Administrator, the Community Development Director or their designee, and others as the Council may provide by ordinance or resolution, shall serve as City staff liaisons. City staff members shall not have the power to vote.

(2) Duties of Community Development Director. The Community Development Director or City Administrator designee shall act as the staff liaison to the Commission and secretary of the Commission and shall set up and maintain a separate file for each application received. The Director shall record the names and addresses of all persons to whom notices are mailed and shall keep a record of all notices published as required in these Regulations. All records and files provided for in this Section shall be permanent and official files and records of the City.

(3) Records/Minutes. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep a record of its examination and other official actions, all of which shall be filed with the Community Development Director and shall be a public record.

23.3.3 *Powers and Duties*

(a) *Powers and Duties*

In addition to the Powers and Duties prescribed in Section 6.2 Planning and Zoning Commission, of the Zoning Ordinance as amended the Commission shall:

(1) Recommend to the Council the approval or disapproval of applications for the platting or subdividing of land within the corporate limits of the City and within the Extraterritorial Jurisdiction as permitted by law.

(2) Recommend to the Council approval or disapproval of requests for street name changes and thoroughfare closures within the corporate limits of the City.

(3) Submit annually to the City Administrator, not less than ninety (90) business days prior to the beginning of the budget year, a list of recommended capital improvements, if any, which in the opinion of the Commission, are necessary or desirable during the forthcoming five (5) year period.

(4) Advise the Council on applications and petitions for legislative decisions as authorized by this Subdivision Ordinance, such as:

a. Petition for amending the Comprehensive Plan or Thoroughfare Plan;

b. Amendments to the text of the Subdivision Ordinance (Subdivision Ordinance) as authorized by City Charter; and

c. Others as assigned by Council.

23.3.4 *Authority for Deciding Applications*

(a) *Recommendation to the Final Decision-Maker for Applications*

The Commission shall make recommendations to the Council on the following types of applications:

(1) An application for a Land Study;

(2) An application for a Preliminary Plat;

(3) An application for a Final Plat;

(4) An application for a Replat, except as allowed in Section 21.7 Revisions to Recorded Plats;

(b) *Recommendation to the Final Decision-Maker for Appeals regarding Plat Applications*

The Commission shall make recommendations to the Council on the following types of appeals regarding plat applications:

(1) Hear appeals for a decision made by the Community Development Director or City Administrator designee to not approve an application for an Amending Plat; and

(2) Hear appeals for a decision made by the Community Development Director or City Administrator designee to not approve an application for a Minor Plat or Replat of less than four lots as allowed in Section 21.6 Minor Plats.

23.3.5 *Recommendation Authority for Deciding Appeals and Relief Petitions*

(a) *Appellate Authority*

The Commission shall recommend to the Council on appeals filed in accordance with Section 5 of these Regulations (Relief Procedures.)

(b) *Petitions for Relief*

The Commission recommend to the Council on the following petitions for relief:

(1) The Commission shall recommend to the Council on any Alternative Subdivision Design, exception or waiver petition on an application for a Preliminary Plat, Final Plat or Replat, except when such Alternative Subdivision Design, exception or waiver is for relief from a dedication or construction requirement, in which case Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement shall apply; and

(2) The Commission shall recommend to the Council on any vested rights petition.

23.4 City Council

23.4.1 *Authority for Deciding Applications*

(a) *Final Decision-Maker for Applications*

The Council shall decide the following types of applications:

(1) An application for a Land Study;

(2) An application for a Preliminary Plat;

(3) An application for a Final Plat;

(4) An application for a Replat, except as allowed in Section 21.7 Revisions to Recorded Plats;

(b) *Final Decision-Maker for Appeals regarding Plat Applications*

The Council shall decide the following types of appeals regarding plat applications:

(1) Hear appeals for a decision made by the Community Development Director or City Administrator designee regarding an application for an Amending Plat; and

(2) Hear appeals for a decision made by the Community Development Director or City Administrator designee regarding an application for a Minor Plat or Replat of less than four lots as allowed in Section 21.6 Minor Plats.

23.4.2 *Authority for Amendments to the Subdivision Ordinance*

(a) *Authority*

The Council may from time to time amend, supplement or change by ordinance the text of this Subdivision Ordinance on its own initiative or upon petition for a text amendment. The Commission shall review any proposed amendments, supplements or changes and provide their recommendation to the Council.

23.4.3 *Authority for Deciding Legislative Applications*

Final Decision on Legislative Actions. The Council shall finally decide all types of legislative applications, such as amendments to this Subdivision Ordinance.

23.4.4 *Authority for Deciding Appeals and Relief Petitions*

(a) *Appellate Authority*

The Council shall finally decide appeals on the following applications and relief petitions:

(1) A vested rights petition filed in conjunction with an application for which the Council is the final decision-maker;

(2) A vested rights petition that has been previously denied by a City official, City board/commission;

(3) An appeal of an Alternative Subdivision Design, exception or waiver decision by the Commission.

(b) *Petitions for Relief*

The Council shall finally decide the following petitions for relief:

(1) Petition for relief from a dedication or construction requirement in accordance with Section 25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement and other provisions of this Subdivision Ordinance, where such waiver or exception shall obligate the City to a future expense to either acquire such dedication or construct an improvement.

23.5 Reserved

23.6 Development Review Committee (DRC)

23.6.1 *Structure of the Development Review Committee*

(a) General. The City Administrator or his/her designee is hereby authorized to establish whatever staff review committees or procedures they deem necessary to review development proposals, applications and plats under these Regulations, to make necessary recommendations to the Commission, to ensure that certain applications are in compliance with this Subdivision Ordinance and other codes of the City, and to coordinate preliminary examination of such applications to ensure that all City departmental requirements, established by resolution or ordinance, have been met without conflict. The makeup and responsibilities of the Development Review Committee shall also be in accordance with Section 6.5 Development Review Committee of the adopted Zoning Ordinance.

Section 24.0 Specific Application and Processing Requirements

24.1 Application Processing and Completeness Determination

24.1.1 *Initiation of Application*

Initiation by Owner. An application for plat approval or a development permit may be initiated only by an owner of an interest in the land subject to the application, or the owner's designated agent. The application shall contain an affidavit of ownership to be signed by the owner of interest. If the applicant is a designated agent, the application shall include a notarized statement from the property owner authorizing the agent to file the application on the owner's behalf.

24.1.2 *Application Completeness and Expiration*

(a) *Applicability*

The following procedures shall apply to any application that is required by the City and is submitted in accordance with this Section.

(b) *Determination of Completeness*

Every required application shall be subject to a determination of completeness by the Responsible Official for processing the application.

(1) No required application shall be accepted by the Responsible Official for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Section.

(2) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Section.

(3) A determination of completeness shall be made by the Responsible Official in writing to the applicant no later than the tenth (10th) business day, unless otherwise specified, after the date that the required application is submitted to the Responsible Official.

a. Written notification of incompleteness shall be given to the applicant within ten (10) business days of receipt of initial submittal, unless otherwise requested by the applicant, and shall include a notice that the application must be completed within 45 dates of the date of the letter.

b. If the required application is determined to be complete, the application shall be determined to be submitted as of the date of the submission and processed as prescribed by this Section.

c. If the required application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire (see Subsection (d) below) if the documents or other information are not provided by the applicant or their consultants.

d. If no letter of notification of incompleteness is given to the applicant within ten (10) business days of receipt of initial submittal, the application shall be determined to be submitted as of the date of the submission and processed as prescribed by this Section.

(c) *Re-Submittal after Notification of Incompleteness*

If the required application is re-submitted after a notification of incompleteness within the time allotted in subsection (d), the application shall be processed upon receipt of the re-submittal. No additional determination of completeness shall be made thereafter. However, to the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.

(d) *Expiration of Application*

(1) An application shall expire on the forty-fifth (45th) day after the date the application is submitted if:

a. The applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the required application;

b. The City has provided to the applicant, not later than the tenth (10th) business day after the date the application is submitted, unless otherwise specified, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and

c. The applicant fails to provide the specified documents or other information within the time provided in the notification. If the required application is not completed by the forty-fifth (45th) day after the application is submitted to the Responsible Official, the required application will be deemed to have expired and it will be returned to the applicant together with any accompanying information.

(2) Once an application has been determined complete, that application shall be vested into the standards of the Zoning, Subdivision and other Ordinances in effect at the time of the determination of completeness.

24.1.3 *Reserved*

24.1.4 *Official Application Date*

The time period established by State law or this Section for a decision approving or denying a plat application shall commence on the date a complete application including the filing fee is accepted by the City. The official application date is the date an application is determined to be complete by the Responsible Official in the manner prescribed by Section 24.1.2 Application Completeness and Expiration.

24.1.5 *Pre-Application Conference and Vested Rights Waiver*

(a) *Purpose*

The pre-application conference is intended to allow for the exchange of non-binding information between the applicant and City Staff to ensure that the applicant is informed of pertinent City development regulations and processes.

Additionally, the pre-application conference provides an opportunity for the applicant and City Staff to discuss major development considerations such as utilities, roadways, drainage concerns, comprehensive plan elements, specific neighborhood characteristics, and historic information.

This exchange of information is intended to promote an efficient and orderly review process.

(b) *Pre-application conference before the submission of plans and applications*

Prior to formal submittal of any required plan or application, the applicant(s) is encouraged to

consult with the Community Development Director or his/her designee, the Building Official, the Community Development Director, and any other pertinent City official(s) in order for the applicant(s) to become familiar with the City's development regulations and the development process.

At the pre-application conference, the developer may be represented by his/her land planner, engineer, surveyor, or other qualified professional.

(c) *Plans and applications pre-application conference encouraged for*

(1) Zoning map amendment (rezoning).

(2) PDD application

(3) Site plan (rezoning)

(4) Site plan (residential cluster development).

(5) Special Use Permit

(6) Mixed Use Overlay District Concept Plan

(7) Variance

(8) Exception

(9) Comprehensive plan adoption or amendment

(10) Subdivision Plats or Plans

(d) *Vested Rights Wavier*

The pre-application conference is optional and allows for the exchange of information between the applicant and City Staff. It is not the intent of the pre-application conference to bind either the applicant or City Staff to items discussed at the meeting. For consideration of a vested right to develop under previously adopted regulations, refer to Section 7.10 Vested Rights, Petition, and Review Procedure.

(1) No pre-application conference shall commence or be held unless and until the property owner, or applicant as an authorized agent of the property owner, signs a waiver stating that no vested rights shall accrue from any discussion that occurs at the pre-application conference.

(2) If the property owner does not sign such waiver, no such conference shall be held, and the property owner or his/her representatives may proceed with his/her application submittal as he/she so chooses.

(3) A copy of the vested rights waiver form shall be available in the office of the Director of Community Development.

(e) *Vested Rights Waiver, Required*

(1) No pre-application conference shall commence or be held unless and until the property owner, or applicant as an authorized agent of the property owner, signs a waiver stating that no vested rights shall accrue from any discussion that occurs at the conference.

(2) If the property owner does not sign such waiver, no such conference shall be held, and the property owner or his/her representatives may proceed with his/her application submittal as he/she so chooses.

(3) A copy of the vested rights waiver form shall be available in the office of the Responsible Official.

24.1.6 *Application Contents*

(a) *Application Forms Generally*

The City is hereby authorized to prepare application forms that include information requirements, checklists, drawing sizes, applicant contact information, and any other relevant information, which shall be available in the Planning Department.

(b) *Information for All Applications*

All applications shall contain the following information:

(1) Identification of property owner and authorized agent, if any;

(2) Description of the property and the nature of the development that is the subject of the application;

(3) Identification of all zoning classifications (inside the City only) or development agreements for the property;

(4) Identification of all pending legislative applications for the property;

(5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;

(6) Identification of all accompanying applications;

(7) Identification of all pending or accompanying requests for relief;

(8) Demonstration of compliance with prior approved permits on the subject property.

(9) All requests for Alternative Subdivision Design Approval.

(c) *Application Forms*

All application forms are available in the City's Planning Department office and on the City of Shenandoah website.

24.1.7 *Application Fees*

Every application shall be accompanied by the prescribed fees set forth in the fee schedule prepared and adopted by the Council. The prescribed fee shall not be refundable and shall be submitted no later than the date an application is determined to be complete. The fee schedule may be amended from time to time by resolution of the Council.

24.1.8 *Modification of Applications*

The applicant may modify any complete application following its filing and prior to the expiration of the period during which the City is required to act on the application.

(1) If the modification is for revisions requested by the City, and the modification is received at least ten (10) business days prior to the time scheduled for decision on the application, the application shall be decided within the period for decision prescribed by this Section.

(2) In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord), submittal of a modified application shall constitute a new application and any action extend the time for deciding the application for a period equal to the time specified in this Section , commencing on the date the modified application is officially submitted. Provided however, if a waiver of the time for decision is required first, required (the terms of the approved waiver shall govern the period within which the City must act on the application.

24.1.9 *Action by Responsible Official*

(a) *Circulate and Compile Comments*

Following the determination that an application is complete (Section 4.1.2 Application), the Responsible Official shall circulate the application to all other administrative officials and departments whose review is required for a decision on the application and shall compile the comments and recommendations of the officials.

(b) *Decision Rendered, If Applicable*

The Responsible Official shall render a decision in the time prescribed for the applicable application, if the official is the decision-maker for the application.

(c) *Forward Application and Provide Notification*

In cases where the Responsible Official is not the decision-maker, the Responsible Official shall forward the application for review to any advisory board/commission and the final decision-maker, and shall prepare a report to such board or commission, or to the Council, as the case may be, including the compilation of any comments and recommendations by other administrative officials. The Responsible Official also shall prepare required notices and schedule the application for decision within the time and in the manner required by this Section.

24.1.10 *Exemption Determination*

(a) *Application for Exemption*

For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit or approval shall be determined in the following manner:

(1) The application for exemption must be submitted on a form supplied by the Responsible Official, must be accompanied by the review fee set by the Council, and must include all of the following information:

a. Name, address, and telephone number of the property owner and the applicant.

b. A brief description of the activity or development for which exemption is sought;

c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site.

d. Information establishing the basis for the exemption.

(2) The Responsible Official shall notify the applicant of the decision. If the Responsible Official denies the application for exemption, the official shall require that an application for the development permit or approval be prepared in accordance with this Code.

(b) *Exemption Description*

An exemption is a separate and distinct consideration that is differentiated from an Alternative Subdivision Design plan, exception and/or a waiver or application.

24.1.11 *Action by the City Council or Planning and Zoning Commission*

(a) *Absence of Advisory Board/Commission Majority Vote*

In the absence of a recommendation from an advisory board/commission by a majority vote on a

proposed application, the advisory board/commission shall be presumed conclusively to have recommended that the application be considered by the Council with a recommendation for denial from the advisory board/commission.

(b) *Absence of a Decision on Final Plat Vacating Plat or Replat Application*

In the absence of an approval, approval with conditions or denial of a final, vacating or replat application by a majority vote of the Council within thirty (30) days of submission, unless waived in accordance with these Regulations, such application shall be deemed approved under state statute.

(c) *Other Applicants*

In the absence of an approval, approval with conditions or denial by a majority vote of all other applications where the Council or Commission has approval authority, such application shall be considered denied.

24.1.12 *Decision*

The decision-maker for the application shall approve, approve with conditions or deny the application within the time prescribed by these Regulations and applicable state laws regarding same.

24.1.13 *Conditions*

The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Section.

24.1.14 *Certification Regarding Compliance with Plat Requirements*

(a) *Certificate of Compliance*

Upon the final approval of a subdivision by the Council, upon recommendation of Commission, or the approval of a minor or amending plat by the Community Development Director or City Administrator designee, prior to the recording of the subdivision plat with the County Clerk, the Mayor in the case of the plats and the Community Development Director or City Administrator designee shall endorse the approved final subdivision with a certificate of compliance stating that the subdivision has been reviewed and approved by the city. Such certificate language shall be provided by the Community Development Department.

(b) *Failure to Act*

In cases where the Council or Commission or other final approving authority fails to act on a final subdivision application within the thirty-day time period as provided in this Section , the Community Development Director or City Administrator designee upon a written request by the subdivider, shall issue a certificate of compliance stating the date the subdivision was submitted and that the Council and/or Commission failed to act on the final subdivision application within the specified time period.

24.1.15 *Certificate of Determination of Platting Required*

(a) *Certificate of Determination*

(1) Platting Completed

Upon request, if the Community Development Director or City Administrator designee determines that a subdivision is required and that the subdivision has been prepared and has been reviewed and approved by the Council, upon recommendation of the Commission, or Community Development Director, or designee, where administrative approval is authorized, the Community Development Director, or designee, shall issue to the applicant or requesting party a written certification of that determination.

(2) Platting Required

On the application of an owner of land, a purchaser of real property under a contract for deed, executory contract, or other executory conveyance or an entity that provides utility service, the Community Development Director shall make the following determinations and give a written certification of that determination regarding the owner's land or the land in which the entity or governing body is interested that is located within the corporate limits or extraterritorial jurisdiction:

a. Whether a subdivision is required under this title for the land; and

b. If a plat is required, whether it has been prepared and

c. Whether it has been reviewed and approved by the Council, upon recommendation of the Commission, or Community Development Director or City Administrator designee, as applicable.

d. Whether a subdivision is required and that a subdivision has not been prepared, reviewed and approved

(3) Platting Not Required

If the Community Development Director, or designee, determines that a subdivision is not required, a written certification of that determination shall be issued to the requesting party.

(b) *Application*

A platting determination application shall be on a form available in the Planning Department, and shall identify the land that is the subject of the request. All applications for a platting determination shall be made in person in the office of the Community Development Director or City Administrator designee.

(c) *Timing of Issuance*

The Community Development Director or City Administrator designee shall make a determination within twenty (20) working days after the date the application or request is received and shall issue the platting determination certificate, within ten (10) working days after the date the determination is made. A platting determination certificate shall be in the form approved and available in the Planning Department.

(d) *Fee for Platting Determination*

A platting determination application shall be accompanied with the appropriate processing fee as established by the Council. A fee shall also be required for requests for copies of certificates of compliance that have already been issued on a property. No fee shall be assessed on a certificate of compliance which has been issued to a subdivider as part of the recording of a subdivision plat as provided for in this Section.

24.2 Notice Requirements

24.2.1 *Published Notice for Replats*

Whenever published notice of a public hearing for a replat approval before the Council and/or Commission is required under state law, or this Section, the Responsible Official shall cause notice to be published in a newspaper of general circulation in the City before the fifteenth (15th) calendar day before the date set for the required hearing. The notice shall set forth the date, time, place and purpose of the hearing, and identification of the subject property, where the decision concerns an individual tract or parcel of land.

24.2.2 *Personal Notice for Replats*

(a) *Notification by Mail*

Whenever personal notice of a Replat public hearing is required by state law or this Section before the Council and/or Commission, the Responsible Official shall cause notice to be sent by regular mail before the tenth (10th) calendar day before the hearing date to the following:

(1) Each owner of real property located within the original subdivision within two hundred feet (200') of the exterior boundary of the property in question.

(2) The applicant and/or property owner, and

(3) If the matter to be considered is an appeal, to the appellant.

(b) *Notification Details*

The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.

(1) Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the City limits, and, when required by state law, on the most recently approved Montgomery County tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or Montgomery County tax roll, notice may be given by publication.

(2) Notice shall be considered served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

24.2.3 *Reserved*

24.2.4 *Notification To the Applicant Following Decision*

Within ten (10) business days of the date by a Responsible Official's or the Council, upon recommendation of the Commission determination on an application, written notification of the action shall be mailed to the applicant, stating the action taken. Record of the Council and/or Commission notification shall be filed with the City Secretary on the date of notification.

24.2.5 *Notification of Appeal or Revocation*

Whenever an appeal is taken from a final decision on a plat or a replat application following a public hearing, or whenever the City is to consider revocation of an approval of a plat, development permit or replat which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided to the applicant. If the notice was required in a replat request, notice shall be provided in the manner prescribed by Section 24.2.2 Personal Notice for Replats.

24.3 Public Hearings

24.3.1 *Setting of the Hearing*

When the Responsible Official determines that an application is complete and that a public hearing is required by this Section, the official shall schedule a public hearing with the Council and/or Commission, select a place and a time certain for the hearing, and shall cause notice of such hearing to be prepared and made in accordance with this Subdivision Ordinance. The time set for the hearing shall conform to the time periods required by these Regulations.

24.3.2 *Conduct of Hearing*

Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.

24.3.3 *Record of Proceedings*

The body conducting any required hearing under these Regulations shall record the proceedings by any appropriate means.

24.3.4 *Continuance of Proceedings*

The body conducting any required hearing under these Regulations may, on its own motion or at the request of any person, for good cause, continue the hearing to a reasonable fixed date, time and place. No additional notice shall be required if a hearing is held open and continued in this manner. If a public hearing is closed, no further public testimony shall be taken without a new public hearing to be noticed as required by law.

24.4 Post-Decision Procedures

24.4.1 *Amendments and Revisions to Approval*

Unless another method is expressly provided by this Section, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is submitted to the City, unless the project has "vested" its rights in accordance with these Regulations and state statute.

24.5 Expiration, Extension, and Reinstatement

24.5.1 *Time of Expiration*

(a) *Automatic Approval Expiration*

Unless otherwise expressly provided by this Section , an approved plat application shall automatically expire on the second (2nd) anniversary of the approval date of the application, and shall become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if:

(1) The applicant fails to satisfy any condition that was imposed by this Code or as part of the approval of the application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or

(2) The applicant fails to submit a subsequent complete application required by this Section within the time so required.

(3) If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years from the date the application was approved, except as provided in Section 25.3 Vested Rights Petition.

(b) *Expiration of Application Approved Prior to the Effective Date*

Except as provided in Section 24.5.6 Expiration for Projects Commenced On or After September 1, 2005 , or unless a different date is determined pursuant to a vested rights petition under

Section 25.3 Vested Rights Petition, an application approved prior to the effective date of this Section shall expire in accordance with the terms of the regulations in effect at the time the application was submitted.

24.5.2 *Effect of Expiration*

Upon the expiration of an approved application, all previously approved applications for the same project shall also expire on the expiration date prescribed in Section 24.5.1 Time of Expiration above if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 24.5.1 Time of Expiration. Thereafter, a new application for each application that has been deemed to have expired under this section must be approved subject to regulations in effect at the time the new application is submitted.

24.5.3 *Extension Procedures*

(a) *First or Initial Extension*

Unless a different time is expressly provided for a specific procedure by this Section, the approving authority for the type of original application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of the expiration of the application, provided that a request for extension is made in writing at least thirty (30) business days before the approved application expires. Every request for extension shall include a statement of the reasons why the expiration date should be extended.

(b) *Second Extension*

A second (2nd) extension of the expiration date of an officially submitted, complete application may be granted for a period not to exceed one (1) additional year. The extension application must be in writing. Such an extension may be granted by the approving authority for the type of original application. The decision-maker may grant a request for a second extension upon demonstration that circumstances beyond the control of the applicant have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

(c) *Impose Conditions with First Extension*

In granting a first extension, the approving authority may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the approving authority may require that one or more newly adopted development standards be applied to the proposed development, provided, however, that the project has not “vested” its rights in accordance with these Regulations and state statute.

24.5.4 *Reinstatement*

(a) *Request for Reinstatement of an Expired application*

Unless otherwise provided by this Section, an applicant may request reinstatement of an expired application by filing a written request with the approving authority within thirty (30) business days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not be extended for more than two (2) years from the date a complete application was officially submitted.

(b) *Reinstatement Criteria*

A reinstatement of an expired application is wholly discretionary, and the approving authority, in determining whether or not to grant reinstatement, shall consider any changes in development

conditions in the area, new public health, safety and welfare concerns and regulations, and the application thereof to development of the land.

24.5.5 *Effect of Decision on Extension or Reinstatement*

The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under Section 24.5 Expiration, Extension, and Reinstatement. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under Section 24.5 Expiration, Extension, and Reinstatement. Thereafter, the applicant shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

24.5.6 *Expiration for Projects Commenced On or After September 1, 2005*

(a) *Expiration Date Determination*

(1) Notwithstanding any other provision of this Section , for any approved application for which no expiration date was in effect on September 1, 2005, an expiration date two (2) years following the date of approval of the permit shall apply, unless the holder of the permit files a petition before such date for a vested rights determination pursuant to this Section , alleging that progress has been made toward completion of the project for which the application subject to expiration was submitted.

(2) If a vested rights petition is timely submitted, the Council shall determine the expiration date of the permit in deciding the petition.

(b) *Expiration of Other Applications*

(1) Notwithstanding any other provision of this Section , once a permit has expired under subsection (a), all previously approved applications for the same land also shall expire no later than five (5) years from the date of filing of the first application for the project for which the expired application was submitted, unless the holder of such permit(s) files a petition before such date for a vested rights determination pursuant to this Section , alleging that progress has been made toward completion of the project for which the applications subject to expiration were submitted.

(2) If a vested rights petition is timely submitted, the Council shall determine the expiration date of the previously approved permits in deciding the petition.

(c) *Progress Towards Completion*

Progress toward completion of a project shall mean that any of the following events have occurred within relevant time periods:

(1) An application for a Final Plat or plan has been submitted to the city, and remains in effect at the time the vested rights petition was submitted;

(2) A good faith attempt is made to file an application with the City to continue the project;

(3) Costs have been incurred by applicant for developing the project, including without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Fiscal Security is posted with the city to ensure performance of an obligation, and remains in effect at the time the vested rights petition was submitted; or

(5) Utility connection fees or other fees for the project have been paid and have not been refunded.

24.6 Enforcement, Penalty and Revocation of Permits

24.6.1 *Enforcement Activities*

Employees of the Community Development Department, Building Permits & Inspections or Planning Department and other enforcing officers, as defined, are authorized to issue municipal court citations for violations of these Regulations and to bring to the attention of the City Attorney, and any other appropriate authority, any violations or lack of compliance with these regulations. Any department, agency, employee or enforcement officer of the city having information regarding an alleged violation to this Section , shall report that information to the chief enforcement officer or department designated by the City Administrator to assist in the enforcement of these requirements.

24.6.2 *Right to Enter*

The authorized official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Section. Submittal of any application that authorizes construction of structures or improvements shall be construed as a grant of authority to the Responsible Official to enter on land subject to the application for purposes of enforcing the approved permit.

24.6.3 *General Remedies*

If the land is used or developed or if any building or structure is erected or constructed, in violation of this Section or any application approved hereunder, in addition to other remedies, the City may institute any appropriate action or proceedings to prevent or abate such activity. Appropriate action or proceedings include termination of utility services (water, gas, electric); revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

24.6.4 *Stop Work Orders*

(a) *Enforcement*

(1) Whenever any construction or development activity is being done contrary to any term, condition or requirements of an approved application and/or this Section, the enforcing officer may order the work stopped by notice in writing, served on the property owner or authorized agent.

(2) Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare.

(3) Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the enforcing officer to proceed with the work.

(4) This prohibition shall extend throughout any appeal period.

(b) *Appeal of Stop Work Order*

The owner or authorized agent may appeal the stop work order to the authorized official by giving written notice. The Commission shall meet within fifteen calendar days after the date the completed application for appeal is received by the secretary.

(c) *Planning and Zoning Commission Decision*

(1) The Commission shall reach a decision without unreasonable or unnecessary delay.

(2) A copy of the decision shall be delivered by certified mail or personal delivery to the applicant.

(3) The decision of the Commission shall be final but may be appealed to a court of competent jurisdiction.

(d) *Measures to Protect Site*

The enforcement officer may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period.

(e) *Appeal Application Provisions*

The Application for each appeal must be signed and be accompanied by payment of a nonrefundable application fee established by appropriate resolution of the Council

24.6.5 *Court Actions*

(a) *Prosecution*

The City Attorney is authorized to prosecute violations of this Section in the appropriate court where jurisdiction lies for the action.

(b) *Culpable Mental State Waiver*

In prosecutions for violations of this Section, it shall not be necessary to allege or prove a culpable mental state, as said requirement is hereby waived.

24.6.6 *Civil Court Actions*

The City Attorney is authorized to file and prosecute an action at law or in equity, where permitted under the laws of Texas, in a court of competent jurisdiction to enforce the provisions of this Section. The initiation of one form of enforcement action by the City Attorney will not preclude the City Attorney from initiating any other form of enforcement action.

24.6.7 *Civil Enforcement*

Nothing herein contained shall prevent the City from taking any other lawful action necessary to prevent or remedy any violation. Appropriate actions and proceedings may be taken by the city in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described in this section

24.6.8 *Previous Regulations*

It is further the intent and declared purpose of this Section that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time that the previous regulations were repealed and this Section adopted shall be discharged or affected by such repeal, but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted, and causes presently in process may be prosecuted in all respects as if such previous regulations had not been repealed.

24.6.9 *Review of Prior Plat Approval and Revocation Proceedings*

(a) *Review of an Approved Preliminary or Final Plat Application*

If an authorized official determines that there are reasonable grounds for revocation of an approved preliminary or final plat application, which plat has not been filed of record the City may initiate a review and ask for corrections to the plat or revoke the approval of a preliminary or final plat. Circumstances that warrant review of an approved application shall include the following:

(1) A material mistake was made in approving the application;

(2) Approval of the application was procured on the basis of material misrepresentations or fraud on the part of the applicant;

(3) Development activities being undertaken on the land subject to the development permit are not in conformity with terms of the approved application;

(4) The use authorized by the permit is in violation of a condition of approval of the approved application;

(b) *Public Hearing Before the City Council and/or Planning and Zoning Commission*

(1) All review and recommendations for changes or corrections, or actions seeking to revoke a preliminary or final plat which has not been filed of record shall be conducted at a public hearing before the Council, upon recommendation of the Commission.

(2) The applicant and any interested parties shall be given notice of the hearing in the manner provided in this Section. The public hearing shall be conducted in accordance with the procedures described in this Section.

(c) *Action Where Plat Has Been Filed of Record*

Where an authorized official determines that there are reasonable grounds for revocation of a plat that has been filed of record, staff shall consult on the matter with legal counsel for enforcement.

(d) *City Council Action, upon recommendation of the Planning and Zoning Commission*

(1) In rendering its decision whether to request revisions to or revoke the approved plat, the Council, upon recommendation of the Commission, shall determine whether the Preliminary or final plat complies with the terms, conditions and requirements of this Section.

(2) The Council, upon recommendation of the Commission may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms; conditions and requirements of this Section shall be met.

(e) *New Application*

(1) Following a decision to require corrections or changes to a previously approved plat, or a decision to revoke a plat approval, and pending any appeal, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new application.

(2) Appeal from a decision to require corrections or changes to an approved plat, or to revoke the approved plat application shall be to the Council.

24.6.10 *Exemption*

This Section does not apply to zoning applications or building permits issued under separate ordinance or provision of the City Code.

24.7 Text Amendments

24.7.1 *Amendments to this Section*

The Council may from time to time amend, supplement, or change the text of this Section by a majority vote of its members, unless a different vote is otherwise required by this Section, the City

Charter, or other law. A request for an amendment to this Code shall not be considered an application for a plat approval or permit.

24.7.2 *Hearing and Notice*

The Council shall adopt text amendments to the ordinance in the same manner as the original ordinance was adopted.

24.7.3 *Recommendation of Advisory Board/Commission*

Where required by this Section, the City Charter, or other law, the Council shall first consider the recommendation of the Commission, together with the recommendations of any other advisory board/commission prescribed by this Code, concerning the proposed text amendment

24.7.4 *Initiation of Text Amendments*

Unless otherwise limited by this Section, a petition for amending the text of this Section may be initiated by the Council; the Commission; a board; commission or advisory board/commission; an ad hoc advisory board/commission appointed by the Council; a Responsible Official designated in this Code; any citizen or owner of land within the City limits; or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).

(1) Except for amendments initiated by the Council, the petition to amend the text of this Section shall state with particularity the nature of the amendment and the reason for the amendment.

(2) A petition for a text amendment may be submitted in conjunction with an application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the application.

(3) The Council may establish rules governing times for submission and consideration of text amendments and fees.

Section 25.0 **Relief Procedures**

25.1 Appeals

25.1.1 *Purpose, Applicability and Effect*

(a) *Purpose*

The purpose of an appeal is to contest administrative any decision on an application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying or otherwise altering the standards of this Section or the SDM that apply to the application.

(b) *Applicability*

Unless otherwise provided by this Section , any final administrative decision on an application by a City official including a determination by the Responsible Official that a proposed development is exempt from one or more applications, may be appealed in accordance with Section 25.1.2(a) Who May Appeal to the Council, upon recommendation of the Commission.

(c) *Effect*

The granting of an appeal supersedes the previous decision and results in the approval, conditional approval or denial of the application for which approval was sought.

(d) *Appeal*

An appeal under this Section does not constitute an appeal for a determination on vested rights, or the proportionality of infrastructure requirements.

25.1.2 *Appeal Requirements*

(a) *Who May Appeal*

The applicant may appeal a final decision on an application to the appellate authority designated by these Regulations, if any.

(b) *Form of Appeal*

The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the Council. An appeal by an applicant shall be accompanied by a copy of the application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.

(c) *Time for Filing Appeal*

A written appeal must be submitted to the Responsible Official within ten (10) business days from the date of notification of the final decision on the application.

25.1.3 *Processing of Appeal and Decision*

(a) *Responsible Official*

The Responsible Official for an appeal is the person designated by this Section for processing of the application at issue in the appeal. Upon receipt of a written appeal, the Responsible Official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate authority.

(b) *Stay of Proceedings*

Receipt of a written appeal of a decision on an application stays all proceedings of the City in

furtherance of the decision from which appeal is taken, including without limitation, acceptance, processing or issuance of any applications that are dependent on the application being appealed, and any development activities authorized by initial approval of the application.

(1) The stay shall be lifted only if the Responsible Official certifies in writing to the appellate authority that a stay would cause imminent peril to life or property.

(2) Thereafter, the stay may be reinstated only by order of the appellate authority or a court of record, on application, after notice to the Responsible Official, for due cause shown.

(c) *Hearing and Notice*

Notification of the appeal and conduct of the hearing thereon shall be in accordance with this Section. The initial hearing on the appeal shall be held within twenty-five (25) business days after the filing of the appeal with the Responsible Official, unless a different time is prescribed by the provisions of this Section.

(d) *Decision on Appeal*

The appellate authority shall decide the appeal within thirty (30) business days. The appellate authority shall affirm, reverse or modify the decision from which the appeal was taken.

(e) *Notification of Decision on Appeal*

The appellant and the applicant for the development permit shall be notified of the decision on appeal in the manner provided in Section 24.2.4 Notification To the Applicant Following Decision.

25.1.4 *Criteria*

In deciding the appeal, the appellate authority shall apply the same criteria that govern the initial decision on the application under the provisions of these Regulations.

25.1.5 *Expiration and Extension*

For purposes of determining the expiration or extension periods under this Section, the date of the appellate authority's granting of relief on an appeal is the date on which the application is deemed approved.

25.2 Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement

25.2.1 *Policy Established*

Adequate Public Facilities Policy

(a) *Adequate Service for Areas Proposed for Development*

(1) Land proposed for development in the City and the City's Extraterritorial Jurisdiction must be served adequately by essential public facilities and services, including parks, water and wastewater, roadway, and drainage facilities.

(2) Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.

(b) *Responsibilities of the Developer to Provide Adequate Facilities*

The developer shall be responsible for the following to ensure the facilities provided are

adequate:

(1) Phasing of development or improvements in order to ensure the provision of adequate public facilities;

(2) Extensions of public facilities and roadways (including any necessary on-site and off-site facilities) to connect to existing public facilities or roadways;

(3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or off-site);

(4) Providing proof to the City of adequate public facilities;

(5) Making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation regulations (e.g., when the City will provide for the cost of oversizing facilities), if applicable;

(6) Providing for all operations and maintenance of the public facilities, or if the City is not the provider, providing proof that a separate entity will be responsible for the operations and maintenance of the facilities;

(7) Providing all fiscal Security, if required, for the construction of the public facilities;

(8) Obtaining approvals from any applicable utility providers other than the City of Shenandoah; and

(9) Complying with all requirements of utility providers, including the City or other applicable providers.

(c) *Responsibilities of the Developer to Conform to Adopted Plans*

The developer shall ensure that facilities provided are in conformance with the City's adopted plans, ordinances and regulations.

(1) Proposed facilities serving new development shall conform to and be properly related to the public facility elements of the City's adopted Comprehensive Plan; other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

(2) The design and construction of all water and wastewater facilities to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities and with the City's and technical specifications.

25.2.2 *Purpose, Applicability and Effect*

(a) *Purpose*

The purpose of a petition for relief from a dedication or construction requirement is to assure that the application of uniform dedication and construction standards to a proposed plat does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.

(b) *Applicability*

A petition for relief under this section may be submitted by a property owner or applicant to contest any requirement to dedicate land or to construct public improvements for dedication to the public that is imposed under the City's public facilities standards in any ordinance or regulation to a plat application or to any related development application authorized by the City, whether the requirement is under uniform standards, or attached as a condition to approval of the petition or permit. A petition under this section shall not be used to waive standards on

grounds applicable to any petition for an Alternative Subdivision Designs, waiver, or exception as found in other sections of this Section.

(c) *Effect*

If the relief requested under the petition is granted in whole or in part by the Council, the dedication or construction requirement initially imposed shall be modified accordingly, and the standards applied or the conditions attached to initial approval of the development application shall be thereafter applied in accordance with the relief granted. In the event the original application was denied by the decision-maker based upon the property owner's failure to incorporate the dedication or construction requirement in the proposed permit, the application shall be remanded to the original decision-maker for a decision consistent with the relief granted by the Council.

25.2.3 *Petition Requirements*

(a) *Who May Apply*

An applicant may petition for relief from a dedication or construction requirement when a dedication or construction requirement has been applied to a plat, or is the basis for denying the plat application.

(b) *Form of Petition*

The petition for relief from a dedication or construction requirement shall allege that application of the standard relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, stormwater, parks, or roadway system, as the case may be, or does not reasonably benefit the proposed development.

(c) *Study Required*

The City shall provide a study in support of the petition for relief that includes the following information:

(1) Total capacity of the City's water, wastewater, stormwater, parks, or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. The City shall provide the total capacity of the system to be used but the applicant may provide a different number if documented by their studies, and compare their number with the number provided by the City. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

(2) Total capacity to be supplied to the City's water, wastewater, stormwater, parks, or roadway system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of capital improvements.

(3) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.

(4) The effect of any City participation in the costs of over-sizing the capital improvement to be constructed in accordance with the City's requirements.

(5) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.

(d) *Time for Filing Petition and Study*

A petition for relief from a dedication or construction requirement shall be submitted to the Responsible Official within ten (10) business days of the Council's decision to conditionally approve or deny an application for approval of a Land Study or Preliminary Plat, or where no Preliminary Plat application has been submitted, an application for approval of a Final Plat. The study in support of the petition shall be prepared within sixty (60) business days of the initial decision, unless the applicant seeks an extension in writing. The Responsible Official may extend the time for preparing the study for a period not to exceed an additional thirty (30) business days for good cause shown.

25.2.4 *Land in Extraterritorial Jurisdiction*

Where land or facilities to be dedicated are located in the extraterritorial jurisdiction of the City and are to be dedicated to Montgomery County, a petition for relief or study in support of the petition shall not be accepted as complete for review by the Responsible Official unless the petition or study is accompanied by verification that a copy has been delivered to the Montgomery County in which the facilities are to be located.

25.2.5 *Processing of Petitions and Decision*

(a) *Responsible Official*

The Subdivision Improvement Plan Engineer is the Responsible Official for a petition for relief from a dedication or construction requirement. The Subdivision Improvement Plan Engineer shall place the petition for relief on a Commission agenda for a recommendation on the merits of the petition to the Council. Where the petition is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to Montgomery County, the Subdivision Improvement Plan Engineer shall coordinate a recommendation with the Montgomery County official responsible for reviewing plats in the Montgomery County.

(b) *Evaluation, Recommendation*

The Subdivision Improvement Plan Engineer shall evaluate the petition and supporting study and shall make a recommendation to the Commission and to the Council based upon the information contained in the study, any comments received from Montgomery County, and the Director's analysis.

(c) *Decision-Maker*

The Council shall decide the petition for relief from a dedication or construction requirement, after receiving a recommendation from the Commission.

(d) *Hearing*

The Council shall conduct a hearing in accordance with Section 24.3 Public Hearings of this Section within sixty (60) business days after the study supporting the petition is submitted to the Subdivision Improvement Plan Engineer.

(e) *Burden of Proof*

The applicant bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the applicant.

(f) *Decision*

The Council shall consider the petition for relief from a dedication or construction requirement based upon the following criteria:

(1) The Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such City's water, wastewater, stormwater, parks, or roadway system, and reasonably benefits the development.

(2) In making such determination, the Council shall consider the evidence submitted by the applicant, the Subdivision Improvement Plan Engineer's report and recommendation and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from the Commission and Montgomery County.

(g) *Action*

Based on the criteria in (e) above, the Council shall take one of the following actions:

(1) Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or

(2) Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development on community City's water, wastewater, stormwater, parks, or roadway system, and either deny the development application or require that additional dedications of rights-of-way for or improvements to such systems be made as a condition of approval of the application; or

(3) Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or

(4) Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the capital improvement under standard participation policies.

(h) *Notification of Decision on Petition*

The applicant shall be notified of the decision on the petition for relief in the manner provided in this Section, within ten (10) business days of the decision.

25.2.6 *Expiration; Effect of Relief*

(a) *Expiration or Failure to File Application*

Where a plat application or related application was denied based upon the imposition of the standard requiring dedication of land or construction of a capital improvement, the applicant shall resubmit the application within ninety (90) business days of the date the petition for relief is granted, in whole or in part, showing conformity with the Council's decision on the petition.

(1) If such re-submittal of the application is not made within the ninety-day (90-day) period, the relief granted by the Council on the petition shall expire.

(2) If the application for which relief was granted is denied on other grounds, a new petition for relief may be required.

(b) *Effect*

The relief granted on the petition shall remain in effect for the period the plat or related approved development application is in effect, and shall expire upon expiration of the plat or related application.

25.3 Vested Rights Petition

25.3.1 *Purpose, Applicability and Effect*

(a) *Purpose*

The purpose of a vested rights petition is to determine whether an application should be processed under the terms of a previous ordinance, to provide a process for determination of vested status, and to determine when certain permits are subject to expiration.

(b) *Applicability*

A vested rights petition may be submitted for an application, permit, plan or plat authorized under this Section, filed in accordance with the Texas Local Government Code, Chapter 245 or successor statute.

(1) A vested rights petition also may be submitted prior to expiration of certain permits pursuant to Section 25.3.8 Dormant Projects.

(2) A vested rights petition may not be submitted with a petition for a text amendment, a zoning map amendment or any other request for a legislative decision by the Council.

(c) *Effect*

Upon granting of a vested rights petition in whole or in part, the Responsible Official shall process the application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards, or extend the permit that would otherwise be subject to expiration pursuant to 25.3.8 Dormant Projects.

25.3.2 *Petition Requirements*

(a) *Who May Petition*

An applicant may submit a vested rights petition with any application identified in these Regulations or by the holder of a permit subject to expiration pursuant to 25.3.8 Dormant Projects.

(b) *Form of Petition*

The vested rights petition shall allege that the applicant has a vested right for some or all of the land subject to the application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Chapter 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:

(1) The name, mailing address, phone number and fax number of the property owner (or the property owner's duly authorized agent)

(2) Identification of the property for which the property owner claims a vested right;

(3) Identification of the "project," as that term is defined in Chapter 245 at 245.001(3);

(4) Identification of the original application for the first permit in the series of permits required for the project, as described in Chapter 245 at 245.00(1) and 245.002(a) and (b);

(5) The date that the first permit in the series of permits required for the project was filed with the City and was determined complete in accordance with Section 24.1.2 Application Completeness and Expiration;

(6) A chronology of the history of the project, with special emphasis on facts establishing that the project was in progress on or commenced after September 1, 1997, as required by Chapter 245 at 245.003;

(7) A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;

(8) The date of submittal of the application for the permit, or of a development plan pursuant to which the permit was subsequently submitted, if different from the official filing date;

(9) The date the project for which the application for the permit was submitted was commenced;

(10) A copy of any prior vested rights determination involving the same land;

(11) Identification of all Shenandoah regulations in effect at the time the original application for the permit was filed that (a) the owner contends are vested and (b) the owner contends controls the approval, disapproval, or conditional approval of an application for a permit, pursuant to Chapter 245 at 245.002(a) and (b);

(12) Identification of all Shenandoah regulations, with particularity and in detail, that the property owner contends do not apply to the project due to the vested rights provided the property owner by Chapter 245;

(13) Identification of any current regulations which petitioner agrees can be applied to the application at issue;

(14) A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific regulation or to an entire project;

(15) The narrative description should also address how the application of current standards affect proposed use of the land, landscaping or tree preservation, open space, or park dedication, lot size, lot dimensions, lot coverage or building size shown on the application for which the petition is submitted;

(16) Whenever the applicant alleges that a permit subject to expiration under Section 25.3.8 Dormant Projects should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.

(c) *Time for Filing Petition*

A vested rights petition shall be submitted with an application for which a vested right is claimed, except that the petition may be submitted before the date of expiration of any permit when submitted pursuant to Section 25.3.8 Dormant Projects. Where more than one application is required to be submitted by this Section, the petition may be submitted simultaneously for each application.

25.3.3 *Processing of Petitions and Decision*

(a) *Responsible Official*

The Responsible Official for a vested rights petition is the same as that for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 25.3 Vested Rights Petition. Where multiple applications are submitted, and there is more than one Responsible Official, the decision of each Responsible Official shall be coordinated with that of any other Responsible Official on the vested rights petition. The City Attorney shall

also be copied on the vested rights petition following acceptance.

(b) *Vesting Pre-determination Conference*

Prior to rendering a final determination, the Community Development Director or their designee may request a pre-determination conference with the owner to discuss the owner's claim and to ensure that the nature of the claim is fully and completely understood by the Community Development Director or their designee prior to a final determination being rendered.

(c) *Decision by Responsible Official*

If the Responsible Official is the decision-maker on the original application, the official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten (10) business days of the date the vested rights petition is accepted for filing. Where the original application allows that the Responsible Official may forward a decision on the original application to the Commission, the Responsible Official may likewise refer a vested rights petition to the Commission, pursuant to paragraph (c) below.

(d) *Decision by Planning and Zoning Commission*

If the original application is one that is decided by the Commission, the Director shall submit a report in the form of a recommendation to the decision-maker. The Commission shall render a decision on the vested rights petition in conjunction with its decision on the application. Appeals of its decision shall be in accordance with the appeal Section 23.4.4 Authority for Deciding Legislative Applications.

(e) *Decision by City Council*

Where the Council is the final decision-maker on the original application or for any petition submitted pursuant to Section 24.5.6 Expiration for Projects Commenced On or After September 1, 2005, the applicant may submit a written request that the vested rights petition be immediately forwarded to the Council for a determination.

(1) The request must be accompanied by a waiver of the time for decision on the application imposed under this Section pending decision by the Council on the petition, which shall stay further proceedings on the application.

(2) Upon receipt of the request, the Responsible Official shall prepare a recommendation and forward the matter to the Council for decision, which shall decide the petition within thirty (30) calendar days of the applicant's request.

(f) *Appeal of Decision on Petition*

The applicant or any interested person may appeal the Responsible Official's or the commission's or board's decision on the vested rights petition within ten (10) business days of the date of such decision to the Council in accordance with the procedures in Section 25.1 Appeals. The Council shall decide the petition within thirty (30) business days of receipt of the notice of appeal.

(g) *Binding Determination*

(1) The Community Development Director or designee's final determination, if not appealed to the Council within 30 calendar days, shall be immediately filed in the City's files related to the project and the determination shall be considered binding on the owner, successors and assigns for the duration of the project.

(2) A decision by the Council regarding a vested right claim, if not timely appealed, shall be filed in the City's files related to the project and the determination shall be considered binding for the duration of the project.

(3) Notwithstanding the binding nature of the Community Development Director or designee's final determination and any ruling by the Council, the City and the property owner may, at any time, enter into an agreement that, to the extent authorized by law, modifies the final determination and the applicable development regulations to be applied to the project.

(h) *Effect on Related Applications*

A final decision on a vested rights petition or appeal under this Section is deemed necessary in evaluating the completeness of any related application. No related application shall be deemed complete without such decision having been made.

25.3.4 *Action on Petition and Order*

(a) *Action on the Petition*

The decision-maker on the vested rights petition may take any of the following actions:

(1) Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;

(2) Grant the relief requested in the petition, and direct that the application be reviewed and decided in accordance with the standards contained in identified prior regulations; or

(3) Grant the relief requested in part, and direct that certain identified current standards be applied to the application, while standards contained in identified prior regulations also shall be applied; or

(4) For petitions submitted pursuant to Section 24.5.6 Expiration for Projects Commenced On or After September 1, 2005, specify the expiration date or the conditions of expiration for the permit(s).

(b) *Order on Petition*

The Responsible Official's report and each decision on the vested rights petition shall be recorded in writing in an order identifying the following:

(1) The nature of the relief granted, if any;

(2) The approved or submitted application(s) upon which relief is premised under the petition;

(3) Current standards which shall apply to the application for which relief is sought;

(4) Prior standards which shall apply to the application for which relief is sought, including any procedural standards;

(5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;

(6) To the extent feasible, subordinate applications that are subject to the same relief granted on the petition; and

(7) For petitions submitted pursuant to Section 24.5.6 Expiration for Projects Commenced On or After September 1, 2005, the date of expiration of the permit or permits.

25.3.5 *Criteria for Approval*

(a) *Factors*

The decision-maker shall decide the vested rights petition based upon the following factors:

(1) The nature and extent of prior applications submitted for the land subject to the petition;

(2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;

(3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;

(4) Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space, or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;

(5) Whether any statutory exception applies to the standards in the current Subdivision Ordinance from which the applicant seeks relief;

(6) Whether any prior approved applications relied upon by the applicant have expired;

(7) For petitions submitted pursuant to Section 24.5.6 Expiration for Projects Commenced On or After September 1, 2005 whether any of the events in Section 25.3.8 Dormant Projects have occurred;

(8) Any other provisions outlined in the Texas Local Government Code Chapter 245 or successor statute.

(b) *Conditions*

If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Section, the decision-maker may condition any relief granted on the petition on the approval of the application under such prior standards.

25.3.6 *Application Following Final Decision on Petition*

(a) *Conformance with Application*

Following the City's final decision on the vested rights petition, the property owner shall conform to the application for which relief is sought to such decision.

(b) *Decision-maker Consideration*

The decision-maker on the application shall consider any application revised under this Subsection in accordance with the procedures for deciding the initial application under this Section and in conformity with the relief granted on the petition.

(c) *Relief and Revisions*

If the relief granted on the vested rights petition is consistent with the application on file, no revisions are necessary.

(d) *Stayed Proceedings*

If proceedings have been stayed on the application pending referral of the vested rights petition to the Council, proceedings on the application shall resume after the Council's decision on the vested rights petition.

25.3.7 *Expiration and Extension*

(a) *Expiration*

Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

(1) The applicant or property owner fails to submit a required revised application consistent with the relief granted within forty-five (45) business days of the final decision on the petition;

(2) The application for which relief was granted on the vested rights petition is denied; or

(3) The application for which relief was granted on the vested rights petition expires.

(b) *Extension*

Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.

25.3.8 *Dormant Projects*

(a) *Definitions*

For purposes of this section only:

(1) Initial permit means any of the following types of approvals granted under the Shenandoah Zoning Ordinance or Subdivision Ordinance, as amended, or any predecessor zoning, subdivision or development-related ordinance that was in effect prior to the adoption of this Section , including: site plans, conditional use provisions, sign permits, plats, variances, or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of land uses, lots or improvements on a site intended for development

(2) Final permit means a building permit, certificate of occupancy, or Final Plat approved under the Shenandoah Zoning Ordinance or Subdivision Ordinance, as amended, or any predecessor zoning, subdivision or development-related ordinance that was in effect prior to the adoption of this Section .

(b) *Expiration of Permits*

Any application for an initial permit that was approved or submitted before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this Section, and that was under the Shenandoah Zoning Ordinance or Subdivision Ordinance, as amended, or any predecessor zoning, subdivision or development-related ordinance, shall expire on the effective date of this Section.

(c) *Reinstatement*

The owner of the land subject to an initial permit that expires under Subsection (b) above may petition the Council to reinstate such permit by filing a written petition within sixty (60) calendar days of the effective date of this Section. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:

(1) As of two (2) years prior to the adoption date of this Section one of the following events had occurred:

a. A final permit for all or part of the land subject to the approved initial permit was approved, or was submitted and was subsequently approved;

b. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2));

c. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land

acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;

d. Fiscal Security, if required, was posted to ensure performance of an obligation for all or a part of the land subject to the approved initial permit; or

e. Utility connection fees or other fees for all or part of the land subject to the approved initial permit were paid.

(2) After two (2) years prior to the adoption date of this Section but before the expiration date specified in Subsection (b) above, one of the following events had occurred:

a. A final permit was approved for all or part of the land subject to the approved zoning permit, and remained in effect for such land on such expiration date; or

b. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

(d) *City Council Action on Reinstatement*

The Council may take one of the following actions:

(1) Reinstate the expired initial permit without an expiration date, if it finds that the applicant has met any one of the criteria listed in Subsection (c)(1) above;

(2) Reinstate the initial permit for all or part of the land subject thereto, if it finds that the applicant has met any one of the criteria listed in Subsection (c) (2) above, subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit;

(3) Deny the petition, if it finds that the applicant has failed to meet any of the criteria in Subsection (c); or

(4) Reinstate the permit for only that part of the land subject to a pending final permit application, if it finds that the applicant has met the criteria in Subsection (c)(2)(b) and the pending application subsequently was approved, and deny the petition for the remaining land subject to the expired initial permit.

25.4 Petition for Waivers or Exceptions

25.4.1 *Purpose, Applicability and Effect*

(a) *Purpose*

The purpose of a petition for a waiver or exception to the standards or requirements of these Regulations is to determine whether one or more standards applicable to plats within this Section should not be applied to an application.

(b) *Applicability*

An applicant may file a petition for waiver or exception of one or more standards applicable to a Preliminary Plat, or where no Preliminary Plat application has been submitted for approval, to the standards applicable to a Final Plat in accordance with Section 21.4 Final Plat and Section 21.8 Construction Plans and Management.

(c) *Waiver or Exception*

A petition for a waiver or exception shall not be accepted for a vested rights or proportionality determination under this Section.

25.4.2 *Application and Decision-Maker*

(a) *Decision by City Council, upon recommendation of the Planning and Zoning Commission*

The waiver or exception petition shall be decided by the Council, upon recommendation of the Commission, in conjunction with the application for approval of the Preliminary Plat.

(b) *Request for Waiver or Exception*

A request for a waiver or exception pursuant to this section shall be submitted in writing by the subdivider with the filing of a subdivision application. The request shall state fully the grounds for the waiver or exception request and all of the facts relied upon by the subdivider. No waiver or exception may be considered or granted by the Council, upon recommendation of the Commission, unless the subdivider has made written request for such request at the time of the subdivision application submittal, or an amended subdivision application submittal.

25.4.3 *Criteria for Approval*

(a) *Waiver or Exception Criteria*

The following criteria shall be applied in deciding a waiver or exception:

(1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land such that the strict application of the provisions of this Section to the proposed use would create an unnecessary hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;

(2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the applicant's land;

(3) The waiver or exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(4) Granting the waiver or exception will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

(5) Granting the waiver or exception will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Section , or adversely affect the rights of owners or residents of surrounding property;

(6) The hardship or inequity is not caused wholly or in substantial part by the applicant;

(7) The request for a waiver or exception is not based exclusively on the applicant’s desire for increased financial gain from the property, or to reduce an existing financial hardship; and

(8) The degree of variation requested is the minimum amount necessary to meet the needs of applicant and to satisfy the standards in this section.

(b) *Findings by the Planning and Zoning Commission*

Such findings by the Commission shall not have the effect of nullifying the intent and purpose of these regulations; the granting of the waiver or exception of conditions will not be detrimental to the public safety, health or welfare or injurious to other property; the relief sought will not in any manner vary the provisions of any other city ordinance or regulation, The Plan for Shenandoah,

or the official zoning map of the city, except that those documents may be amended in the manner prescribed by law; and further provided, that the Commission shall not approve a waiver or exception unless it shall make findings based upon the evidence presented in each specific case.

(c) *Burden of Proof*

The applicant bears the burden of proof to demonstrate that the application of a construction requirement that is uniformly applied imposes a disproportionate burden. The subdivider must also demonstrate an alternative method of development that will improve the aesthetic value of the subdivision while giving equal emphasis to safety, economy, tax yield, maintenance cost, response time, drainage, vehicular access and pedestrian passage

(d) *Decision*

The Council, upon recommendation of the Commission, shall consider the waiver or exception petition and, based upon the criteria set forth in Subsection (a) above, shall take one of the following actions:

(1) Deny the petition, and impose the standard or requirement as it is stated in this Section; or

(2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Section. In approving a waiver or exception, the Council, upon recommendation of the Commission, may require such conditions as will, in its judgment, secure substantially the purposes described in this section.

(e) *Notification of Decision on Petition*

The applicant shall be notified of the decision on the waiver or exception petition in the manner provided in Section 24.2.4 Notification To the Applicant Following Decision.

25.4.4 *Effect of Approval*

Effect. The waiver or exception granted shall remain in effect for the period the plat or related approved application is in effect, and shall expire upon expiration of the plat or related application. Extension of the plat also shall result in extension of the relief granted on the petition.

Section 26.0 **Definitions**

26.1 General Provisions

For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in City of Shenandoah Zoning Ordinance, Section 8.0 as amended. The index of definitions is in Section 27.1.1 General Provisions - Definitions.

26.1.1 *Definitions in Other Locations within this Section*

For the purpose of this Section, certain terms and words are to be used and interpreted as defined within the other sections of these Regulations wherein they apply to certain regulations. These sections include but are not limited to "Subdivision Ordinance, Dormant Projects," specifically within Section 25.3.8 Dormant Projects.

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