

# ARTICLE 13: Supplementary Use Regulations

## 13-10 General

The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right or by special use permit. These supplementary regulations are in addition to all other requirements of this chapter, the Town Code, and all other applicable laws.

## 13-20 Use Regulations

### 13-20.10 Animal Hospitals

All such facilities shall be within a completely enclosed building. The building shall be adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other properties in the area in accordance with the Town ordinance regulating the barking of dogs.

### 13-20.20 Animal Kennels

- a) Lot Size: There shall be a minimum lot size requirement of two (2) acres, and any structure used for the confinement, care or breeding of animals shall be located at least 200 feet from adjoining lot lines.
- b) Confinement: All such animals shall be kept in pens designed and maintained for humane and secure confinement.

### 13-20.30 Car Washes

Car washes shall be located and designed so that vehicular circulation shall not conflict with traffic movements in adjacent streets, service drives, driveways and/or parking areas.

### 13-20.40 Child Care Centers

- a) Recreation Area: A minimum of 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted with the zoning permit or special use permit application. For the purpose of this section usable outdoor recreation area shall be limited to:
  - 1) The area not covered by building or required off-street (i.e. on-site) parking spaces.
  - 2) The area outside the limits of the required front yard setback(s).
  - 3) Only that area which is developable for active outdoor recreation purposes.
  - 4) An area that occupies no more than eighty percent (80%) of the combined total areas of the required side and rear yards, exclusive of any minimum required buffer yards.
- b) Fencing: A fence at least four (4) feet in height shall completely enclose the outdoor recreation area so that children are safely contained inside and that all persons entering the

recreation area are within direct line of sight from the child care center classroom areas or from inside the building.

- c) Recreation Location: Outdoor recreation areas shall be safely separated from parking, loading and service areas such as dumpster pads.
- d) Parking: Parking areas shall be designed to enhance the safety of children as they arrive and depart the center. A designated arrival and departure zone shall be located adjacent to the child care center in such a manner that children do not have to cross vehicle travel aisles to enter or exit the center.

### **13-20.50 Communication Towers**

- a) Application. Each application for a Special Use Permit for a communication tower shall include the following information in addition to the general information required by this Ordinance:
  - 1) Site Plan or plan drawn to scale specifying the location of tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, landscaped areas (specifying size, spacing and plant materials proposed), fences, and adjacent land uses.
  - 2) Report from a registered structural or civil engineer indicating tower height and design, structure, installation, and total anticipated capacity of structure (including number and types of antennas, which could be accommodated). This data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code.
  - 3) Statement from a registered Engineer that the NIER (non-ionizing electromagnetic radiation) emitted therefrom does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
  - 4) Satisfactory evidence from the applicant of the lack of space on suitable existing towers, buildings, or other structures to locate the proposed antenna and the lack of space on existing tower sites to construct a tower for the proposed antenna within the service area shall be considered in the review of the application for a new tower.
- b) Special Requirements: If the tower does not meet or exceed the structural requirements as set out in ELA-222-D, “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures”, published by the Electronic Industries Association, effective June 1, 1987, as the same may from time to time be amended or revised, then the minimum setback requirement from the base of the tower to any property line abutting a residential use or district shall be equal to one-hundred and ten percent (110%) of the height of the tower. A report certifying that these structural requirements will be met must be submitted with the application for special use permit. Additionally, no tower may be located closer than two-hundred (200) feet from an existing residential structure, regardless of the district in which the structure is located.

The minimum setback requirement from the base of the tower to any property line abutting a right-of-way of any street, office use or district, or park use shall be at least fifty (50) feet unless a greater setback is specified due to other circumstances as a condition of approval.

For property lines not abutting the above uses or districts, the minimum setback requirement shall be at least twenty-five (25) feet unless a greater setback is specified due to other circumstances as a condition of approval. No advertising material shall be allowed on the communication tower.

Individual district requirements for minimum lot area and lot width notwithstanding, the following requirements for tower sites shall apply in all districts:

- 1) Minimum Lot Area: There shall be no minimum lot area, except as necessary to meet the required setbacks of this Ordinance.
  - 2) Minimum Lot Width: The minimum lot width shall be fifty (50) feet measured at the tower location. When a facility covered by this section is not located adjacent to a public street, a right of way, or easement for ingress with a minimum width of fifteen (15) feet shall be provided.
  - 3) Setbacks: Minimum setbacks for any building constructed in conjunction with a tower shall meet setback requirements as established for the underlying zoning district.
  - 4) Uses: Each lot for which these reduced requirements apply shall be restricted to the uses described in this Section; and this restriction shall be noted on any plat or other document describing such lot.
- c) Location criteria: In considering approval of any proposed communication tower site, the Town Council shall give consideration to the following criteria:
- 1) Whether the application represents a request for multiple use of a tower or site, or use on a site contiguous to an existing site;
  - 2) Whether the application contains a report that other potential users of the site and tower have been contacted, and they have no current plans, to the best of their ability to determine, that could be fulfilled by joint use;
  - 3) Whether the application shows how the tower or site will be designed or laid out to accommodate future multiple users;
  - 4) Whether the proposed tower is to be located in an area where it would be unobtrusive and would not substantially detract from aesthetics or neighborhood character, due either to location, to the nature of surrounding uses (such as industrial uses), or to lack of visibility caused by natural growth or other factors; and

### **13-20.60 Gasoline and Fuel Canopies**

- a) Canopy height as measured from the finished grade to the lowest point on the canopy fascia should not exceed fifteen (15) feet. The overall height of canopies shall not exceed 18 feet 3 inches (18'3").
- b) Canopy lighting shall be flush with or fully recessed in the ceiling of the canopy.
- c) Canopies should be architecturally integrated with the principal building by using similar materials, colors and detailing.

### **13-20.70 Mini-Warehouses**

- a) Storage: All storage shall be within completely enclosed buildings.
- b) Loading: Loading docks shall not be permitted.
- c) Dwelling Use: One residential dwelling unit, which shall be considered accessory to the use of the property as a mini-warehouse, may be permitted solely for the use of a caretaker or watchman.
- d) Other Use: No office, retail or wholesale use of the storage units shall be permitted.
- e) Outdoor Storage: Any outdoor storage of trucks or moving vans, loading areas or parking areas shall be limited to areas designated on an approved site plan, and shall be adequately screened from adjacent properties and roadways. Such areas shall not be used for the storage or display of inoperable vehicles as defined in Chapter 70 of the Town Code.

### **13-20.80 Multi-Family and Townhouse Dwellings**

The standards of this section shall apply to all multi-family developments and all townhouse developments exceeding a density of eight (8) dwelling units per acre.

- a) Building Separation: All multi-family buildings shall be separated by a minimum horizontal distance of twenty (20) feet. All townhouse buildings shall be separated by a minimum horizontal distance of fifteen (15) feet.
- b) Recreational Facilities: Construction of recreation facilities described in the site plan shall be in accordance with a schedule approved as part of the plan and shall be at a rate equivalent to or greater than the rate of construction of dwellings. At a minimum, a phasing plan must assure that major recreation facilities, such as pools, clubhouses and tennis courts, are constructed prior to completion of fifty percent (50%) of the total units. Indoor recreation facilities shall be adequately soundproofed. Lighting of any outdoor recreation facility must be directed so as to eliminate or mitigate glare onto any residential use or roadway. The hours of operation for outdoor recreation facilities shall not exceed 7 a.m. to 11 p.m.
- c) Pedestrian Access to Recreational Facilities: The following locations requirements shall apply to recreation space insofar as reasonably practicable:
  - 1) Recreation areas intended for general use and for pedestrian access shall be accessible from dwellings without crossing streets, or with a minimum of street crossings.
  - 2) Walkways and recreational areas shall form an interconnected system, serving also as routes to schools, churches and other major pedestrian destinations.
  - 3) The recreation and walkway system internal to the development shall be located in block interiors and oriented away from exposure to automotive traffic.

- 4) At least ninety (90) percent of all dwelling units shall be within 600 feet (by normal pedestrian routes) of required recreation or open space.
- d) Architecture: Architectural treatment shall avoid massive, monolithic and repetitive building types, facades and setbacks, and shall be compatible with surrounding areas. Building elevations and architectural details sufficient to show compliance with this standard shall be submitted for approval.

### **13-20.90 Nursing Homes and Assisted Living Facilities**

- a) Access: A nursing home shall be designed to accommodate service vehicles with access to the building at a side or rear entrance.
- b) Parking: Parking located in front of an Assisted Living Facility shall be limited to visitors only. Employee parking shall be located on the side or in the rear of the building.
- c) Service Area: Any loading or service area shall be located and designed to minimize its visibility from off-site.

### **13-20.100 Outdoor Recreation Facilities**

- a) All lighting fixtures used to illuminate outdoor areas shall be designed to avoid glare in surrounding areas. The facility shall be lit only during the hours that the facility is open, except for necessary security lighting.
- b) A lighting plan shall be submitted to verify that all lighting fixtures are directed onto the site, and will not impact adjacent properties or roadways.

## **13-30 Accessory Use Regulations**

### **13-30.10 Accessory Dwelling Units**

- a) Number: No more than one accessory dwelling unit shall be permitted in conjunction with a principal dwelling unit or building.
- b) Density: The maximum density in the zoning district shall not be affected by the development of an accessory dwelling unit.

### **13-30.20 Fences**

The purpose of the requirements is to maintain and enhance the appearance, safety, and privacy of property within residential neighborhoods and to ensure that fences and walls do not become a detriment to adjacent properties or the neighborhood in general.

- a) Determination of Height: The height of fences shall be measured from the grade at the point of placement.
- b) Maximum Height: Fences and walls may be located within required yards or setbacks subject to the following limitations.

- 1) Front Yard: Fences and walls erected within the front yard of any lot used primarily for residential purposes shall not exceed forty-eight (48) inches in height, except that decorative wooden, masonry, or iron fences and walls or portions thereof exceeding forty-eight (48) inches in height may be erected within the front yard of any such lot provided they do not obstruct visibility at street or driveway intersections. In no case shall a fence or wall erected within the front yard of any lot used primarily for residential purposes exceed six (6) feet in height.
- 2) Side or Rear Yard: Fences and walls erected within the side or rear yard of any lot used primarily for residential purposes shall not exceed seven (7) feet in height, except when abutting a nonresidential district or use, in which case such fences may be eight (8) feet in height. For non-residential districts and uses, fences erected with the side and rear yard shall not exceed eight (8) feet in height.
- c) Prohibited Fences: No barbed wire or electrical fences are permitted on any lot used primarily for residential purposes.
- d) Additional Requirements: Fences shall not encroach upon rights-of-way or adjacent properties. All fences shall comply with all local and state requirements for visibility at intersections and driveways. All fences shall be maintained in sound structural condition. The finished side of a fence or wall shall face the street or adjoining properties.

### **13-30.30 Home Occupations**

The Town recognizes the desire and need of some citizens to use their residence for business activities in order to reduce trip generation and to provide another economic development tool, but it also recognizes the need to protect the surrounding areas from adverse impacts generated by these business activities. Home occupations are permitted in any dwelling unit subject to the limitations established herein. It is the intent of this section to ensure the compatibility of home occupations with other permitted uses, to preserve the character of residential neighborhoods, and to prevent excessive noise, traffic, nuisance, safety hazards, and other potential adverse impacts of commercial uses conducted in residential areas.

- a) Use Limitations:
  - 1) The home occupation shall not result in the alteration of the appearance of the residential dwelling unit or the lot on which it is located. There shall be no storage or display of goods outside of a completely enclosed structure.
  - 2) No signage other than those permitted in a residential zoning district, or upon on a residential lot or structure, shall be displayed in connection with the home occupation.
  - 3) The home occupation shall not involve the use or storage of explosives, flammable or hazardous materials and may not involve any process that produces smoke, dust, odor, noise, vibration, or electrical interference, which in the opinion of the Zoning Administrator, is deteriorative or harmful to surrounding properties.
  - 4) The Zoning Permit for the home occupation is valid to the original applicant only and is not transferable.
  - 5) The home occupation shall have no more than one nonresident employee on the premises at any one time provided that one additional off-street parking space is available. The number of nonresident employees working at locations other than the residence where the home occupation is located shall not be limited.

- 6) The home occupation shall not generate more than ten (10) customer and/or client visits in any one day and only between the hours of 9 A.M. to 6 P.M. Not more than three (3) customer and/or client vehicles may be present at any one time.
- 7) No more than one (1) commercial vehicle may be stored or parked on the property.
- 8) Any exception to the above requires approval of a Special Use Permit in accordance with Section 3-30 of the Ordinance.

b) Permitted Home Occupations:

- 1) Artist and sculptor
- 2) Author and composer
- 3) Caterer
- 4) Computer programming, data processing, typing and word processing service
- 5) Direct sale product distribution
- 6) Dressmaker, seamstress and tailor
- 7) Family day care
- 8) Home crafts, such as model making, rug weaving, lapidary work, and ceramics, for sale off-site
- 9) House cleaning service, laundry and ironing service
- 10) Jewelry making and jeweler
- 11) Licensed massage therapy
- 12) Locksmith
- 13) Music lessons
- 14) Office for profession in fields such as, but not limited to, architecture, drafting and graphics, interior design, engineering, financial planning, and other consulting services
- 15) Office of a minister, rabbi, priest or similar person associated with a religious organization
- 16) Office of a salesman, sales representative, or manufacturer's representative, provided that no retail or wholesale transactions are made in person on the premises
- 17) Similar use which does not involve retail or wholesale sales transactions in person on the premises or employment of persons other than members of the family occupying the dwelling
- 18) Telephone answering services and solicitation work
- 19) Tutoring
- 20) High-speed Internet access provider
- 21) Office of real estate broker
- 22) Office of mobile pet-grooming service
- 23) Barber shops and beauty parlors
- 24) Psychiatrist
- 25) Massage parlors
- 26) Other uses determined by the Zoning Administrator to be similar in scope and impact on the surrounding neighborhood to those permitted home occupations listed above.

c) Prohibited Home Occupations:

- 1) Adult entertainment business
- 2) Antique shops
- 3) Automotive detailing, repair or paint shop

- 4) Dance studio, exercise studio, or similar use
- 5) Child care center
- 6) Dog grooming service
- 7) Funeral home
- 8) Gift shop
- 9) Landscape contractor
- 10) Limousine, hearse, ambulance or taxi service
- 11) Medical or dental laboratory and/or office
- 12) Nursing homes, convalescent homes, and adult care facilities
- 13) Outdoor repair or service
- 14) Palm reader/clairvoyant and fortune tellers
- 15) Rental of any equipment or other items
- 16) Restaurant
- 17) Small machinery repair shop
- 18) Veterinary hospitals and/or animal kennels
- 19) Welding or machine shop
- 20) Wrecking, repossession and/or towing service

### **13-30.40 Yard Sales and Garage Sales**

Not more than three (3) yard sales or garage sales shall be permitted on any residential lot or residentially-zoned property during any calendar year.

## **13-40 Affordable Dwelling Unit Program**

### **13-40.10 Authority**

In accordance with § 15.2-2305 of the Code of Virginia, the Town adopts the provisions of this section to address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing affordable to low and moderate income citizens, such income thresholds to be determined by the requirements or guidelines of the various local, state and/or federal programs listed in Sec. 13-40.20 below, by providing for increases in density to the owner-applicant in exchange for the owner-applicant providing such affordable housing. The provisions of this section shall be known and referred to throughout this Ordinance as the Affordable Dwelling Unit Program of the Town.

### **13-40.20 General**

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

- 1) Virginia Housing Development Authority
- 2) Section 8 Rental Assistance Program
- 3) Department of Housing and Urban Development Community Block Grant Program
- 4) Farmer's Home Administration (Rural Development) Program; and/or
- 5) Other programs similar to those named herein as approved by Town Council

### **13-40.30 Availability, Minimum Time Required**

The applicant shall provide assurance to the Town that the affordable dwelling units will continue to be available for this purpose for at least fifteen (15) years following the date of Town approval. This assurance will take the form of a deed restriction, restrictive covenants, or other form of legal and binding agreement approved by the Town Attorney and Town Council.

### **13-40.40 Density Bonus**

The density bonuses outlined in the District provisions in Article 5 shall be permitted in conjunction with the ADU density bonus. The maximum density shall not exceed that provided for in the provisions of each zoning district for each dwelling unit type. Percentages of density increase are to be applied separately and are not to be compounded. The process for granting approval of such density bonuses shall be in accord with the procedures and provisions for approval of such single-family, duplex, townhouse, multi-family, live-work or mixed-used dwelling units as provided for in this chapter, and shall be in the form of a legal binding agreement acceptable to and approved by the Zoning Administrator, provided that approval of conditions authorizing such a bonus for the construction of ADUs in conjunction with any zoning amendment, zoning map amendment, conditional zoning request shall be in accordance with the provisions of Article 2 of this chapter applicable to the same.

### **13-40.50 Availability to Town and County Residents**

ADU's should first be made available to persons residing or working in the Town of Orange or Orange County. The developer shall contact the appropriate local Social Service office(s) for identification and placement of residents ninety (90) days prior to advertising the availability of the units.

### **13-50 Dwelling Unit Occupancy**

In any district in which residential uses are permitted or legally exist, a dwelling unit shall be occupied only by a family as defined in Article 14. Occupancy by any other entity or person shall constitute a violation of this chapter.

- a) Residential occupancy of dwelling units shall be limited to the maximum number of occupants permitted by this Ordinance and by the Virginia Property Maintenance Code occupancy limitations, to protect against threats to the public safety, health and welfare that can accompany overcrowding of land or undue density of population caused by excessive occupancy.

- b) An owner or occupant of a dwelling unit that occupies or permits the occupancy of a dwelling unit by a number of occupants in excess of the maximum occupancy prescribed shall reduce the occupancy to a level consistent with the limits of this Ordinance and the Virginia Property Maintenance Code occupancy limitations upon notice of the Zoning Administrator or designee.
- c) Residential occupancy is prohibited in any shed, boat, tent, portable storage unit, recreational vehicle or similar device.
- d) Unauthorized dwelling units are prohibited. An unauthorized dwelling unit shall be defined as any dwelling unit which is established in violation of the provisions of this Chapter. An unauthorized dwelling unit within a building exists when contiguous areas for living, sleeping, cooking and sanitation are designed in such a manner as to establish a distinct, separate, self-contained living or housekeeping unit. In addition, the existence of any one of the following conditions shall be considered to be an unauthorized dwelling unit:
  - 1) A secured internal access/connection is maintained so as to prevent full access to all of the common living area (exclusive of private bedroom/bath areas) to all occupants of the dwelling.
  - 2) More than one assigned address or more than one electric, water or gas meter is established for the dwelling unit.