

## APPENDIX B

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\* **Editor's Note**— Printed in this appendix are the zoning regulations of the town, as adopted by ordinance on December 3, 2001. Amendments to the ordinances are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation and state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

**Cross references**—Any zoning ordinance saved from repeal, § 1-10(11); buildings and building regulations, ch. 14; environment, ch. 18; floods, ch. 30; subdivision, app. A.

**State law reference**—Zoning, Code of Virginia, § 15.2-2280.

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### ARTICLE 1. GENERAL PROVISIONS

#### Sec. 1.1. Title.

This ordinance shall be known and cited as the Zoning Ordinance of Damascus, Virginia. The map portion may be cited separately as the Zoning Map of Damascus, Virginia.

#### Sec. 1.2. Authority.

This ordinance and map are adopted according to the authority of Code of Virginia, § 15.2-2280 et seq. As specified in the above sections of the Code, the Town of Damascus is authorized to, among other things, provide for the establishment of districts in which the town may regulate, restrict, permit, prohibit and determine the following:

- a. The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, flood protection and other uses;
- b. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;
- c. The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including the establishment of minimum lot sizes; and
- d. The filling, excavation or mining of soil or other natural resources.

#### Sec. 1.3. Jurisdiction.

The provisions of this ordinance shall apply to all land and structures within the corporate limits of the Town of Damascus, Virginia.

### ARTICLE 2. INTENT AND PURPOSE

#### Sec. 2.1. Intent.

This ordinance is intended to ensure the orderly land usage, occupation and development of the Town of Damascus.

#### Sec. 2.2. Purpose.

The purpose of the zoning ordinance is:

To promote the health, safety and general welfare of the public;

To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;

To reduce or prevent congestion in the public streets;

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To facilitate the creation of a convenient, attractive, and harmonious community;

To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic, or other dangers; and

To encourage economic development activities that provide desirable employment and enlarge the tax base.

### **ARTICLE 3. LEGAL STATUS PROVISIONS**

#### **Sec. 3.1. Interpretation.**

In their interpretation and application, the provisions of this ordinance shall be construed to be the minimum requirements for the promotion of the public health, safety, morale, and general welfare of the residents of Damascus.

#### **Sec. 3.2. Relationship to other laws and private restrictions.**

3.2-1. Where the conditions imposed by the provisions of this ordinance are comparable with applicable conditions imposed by another ordinance, law, resolution, rule or regulation, the regulations which are more restrictive shall apply.

3.2-2. This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

#### **Sec. 3.3. Provisions are cumulative.**

This ordinance is cumulative with additional limitations imposed by all other laws and ordinances heretofore passed, or which may be passed hereafter, governing any subject matter appearing in this ordinance.

#### **Sec. 3.4. Separability.**

It is hereby declared to be the intention of the town council of the Town of Damascus, Virginia, that the provisions of this ordinance are separable.

Thus, if any court of competent jurisdiction should adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment; or

If any court of competent jurisdiction shall hold invalid the application of any provision of this ordinance to a particular property, building, structure, or use, such judgment shall not affect the application of said provisions to any other property, building, structure, or use not specifically included in said judgment.

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### **Sec. 3.5. Ordinance provisions do not constitute permit.**

Nothing contained in this ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.

### **Sec. 3.6. Scope of regulations.**

#### *3.6-1. New uses, lots, buildings or other structures.*

- a. Upon the effective date of this ordinance, no building or other structure shall hereafter be erected or altered or put to use which is used in any manner contrary to the provisions of this ordinance.
- b. No part of a yard, lot, or other open space, or off-street parking or loading space required in connection with any structure for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other structure.
- c. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

### **Sec. 3.7. Construction of language.**

In the construction of this ordinance, the rules contained in this section shall apply, except when the context clearly indicates otherwise:

3.7-1. The word "shall" is always mandatory and not discretionary; and the word "may" is permissive;

3.7-2. The word "lot" shall include the words "part" or "parcel" and the word "building" or "structure" includes all other structures or parts thereof;

3.7-3. The word "permitted" or words "permitted as of right," means permitted without meeting the requirements for a conditional use by special permit pursuant to article 16 of this ordinance;

3.7-4. The particular shall control the general, words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary;

3.7-5. All public officials, bodies and agencies to which reference is made are those of the Town of Damascus, Virginia, unless otherwise specified;

3.7-6. In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table, the text shall control;

3.7-7. Except where definitions are specifically included in various articles and sections, words in the text or tables of this ordinance shall be interpreted in accordance with the definitions in article 20. Where words have not been defined, the standard dictionary definition shall prevail. In any case, the zoning administrator shall have the right to interpret the definition of any word.

### **Sec. 3.8. Effective date.**

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This ordinance shall be in force and effect from and after its passage and adoption.

### **ARTICLE 4. ADMINISTRATION OF ZONING ORDINANCE\***

#### **Sec. 4.1. Creation and authorization of the office of zoning administrator.**

The office of zoning administrator is hereby established to administer and enforce this ordinance. The zoning administrator shall be designated by the town council and may be provided with assistance of other persons at the direction of the town council.

#### **Sec. 4.2. Duties of zoning administrator.**

The zoning administrator shall be responsible for the administration and enforcement of this ordinance and shall have all necessary authority on behalf of the town council to carry out the following duties:

4.2-1. The zoning administrator shall be responsible for the issuance of zoning permits. The zoning administrator shall review each application for a zoning permit and may require any other information which he may deem necessary for the consideration of the application. In cases where a site plan review (article 11), or a conditional use permit (article 16) is required, or where a variance (article 17), or an amendment (article 19) is requested, the zoning administrator must fulfill the duties specified in the appropriate article.

4.2-2. Upon finding that any provision of this ordinance is being violated, the zoning administrator shall follow the procedures authorized in article 5.

#### **Sec. 4.3. Plans required for zoning permits.**

Each application for a zoning permit shall be accompanied by a site plan drawn to scale showing:

- a) The shape and dimensions of the plot to be built upon;
- b) The structures and accessory buildings then existing;
- c) The dimensions and location of all proposed structures, alterations or additions;
- d) The existing and intended uses of the land and of each structure or part thereof;
- e) The number of families or dwelling units, where applicable, the structure is designed to accommodate; and
- f) Any other information that the administrator may deem necessary for consideration of the application.

If the proposed structure or use is found to conform to the provisions of this ordinance, the administrator shall issue a zoning permit to the applicant. (See section 4.7 for a diagram of the above process.)

#### **Sec. 4.4. Zoning permits required.**

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\* **Cross reference**— Administration, ch. 2.

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No structure shall be demolished, erected, moved, added to or materially altered, or land used or occupied, without a zoning permit issued by the zoning administrator.

**Sec. 4.5. Permits not to be issued.**

No zoning permit shall be issued for any land use, building, structure, or part thereof which is not in accordance with the provisions of this ordinance.

The zoning administrator may require an applicant to provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, and any other charges that constitute a lien on the subject property, that are owed to the Town of Damascus and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer. In the case that satisfactory proof cannot be provided, and authorization is not granted by the treasurer, no zoning permit shall be issued.

**Sec. 4.6. Zoning compliance.**

The premises are to be inspected by the zoning administrator, or his or her designee, at the time of the application for the zoning permit, and at any time thereafter that may be necessary, to ensure compliance with the plans and specifications upon which the zoning permit were based as well as compliance with any other provision of this ordinance.

**Sec. 4.7. Procedure for principal uses.**

(See article 7 and article 8 for principal permitted uses in each zoning district.)

APPLICANT	Applicant applies for zoning permit and submits copies of plans as specified in section 4.3 to zoning administrator.
Application	
ZONING ADMINISTRATOR	Zoning administrator interprets zoning ordinance, inspects premises, and (if the application conforms to the ordinance) issues a zoning permit.
Zoning Permit	
Permitted Activity	Applicant completes activity for which the permit was issued.
Zoning Compliance	Zoning administrator inspects completed activity(s) to determine conformity to plans and specifications.

**ARTICLE 5. ENFORCEMENT AND REMEDIES**

**Sec. 5.1. Complaints regarding violations.**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis of such complaint and shall be filed with the zoning administrator. The zoning administrator shall properly record the complaint, investigate and take such action as provided for in this ordinance.

**Sec. 5.2. Penalties for violation.**

Violations for the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor and shall be punished as provided for by law. Each day such violation exists shall be deemed as a separate offense.

The owner or tenant of any building, structure or premises and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and shall be punished as provided for by law.

**Sec. 5.3. Remedies.**

Upon finding that any provision of this ordinance is being violated, the zoning administrator shall notify in writing the person responsible for such violation and order the discontinuance of the construction and use of illegal buildings, structures, illegal additions, alterations or structural changes; and the discontinuance of any illegal work being done.

Should such notice fail to force compliance with the ordinance, the zoning administrator shall request that the town attorney bring legal action to ensure compliance with the ordinance, including injunction, abatement or other appropriate action or proceeding.

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building, other structure or land is or is proposed to be used in violation of this ordinance, the zoning administrator or other appropriate authority of the town government or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute an injunction, writ of mandamus or other appropriate action or proceeding to correct or abate such violation, to prevent the occupancy of such building or other structure or land, or to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use.

**Sec. 5.4. Remedy procedure.**

<hr/> <p>ZONING ADMINISTRATOR</p> <hr/>	Detects violation and orders in writing that the violation be corrected.
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Orders Remedy in Writing	
_____ VIOLATOR _____	
Situation Remains in Violation	
_____ TOWN ATTORNEY _____	Initiates appropriate court action.
Court Action	
_____ VIOLATOR _____	

**ARTICLE 6. OFFICIAL ZONING MAP**

**Sec. 6.1. Incorporation of map.**

The boundaries of districts established by this ordinance shall be shown on the official zoning map which is incorporated into the provisions of this ordinance. The zoning map in its entirety, including all amendments, is as much a part of this ordinance as if fully set forth and described herein.

**Sec. 6.2. Identification and alteration of the official zoning map.**

6.2-1. The official zoning map shall be identified by the signature of the mayor and bear the town seal under the following words: "This is to certify that this is the official zoning map referred to in the zoning ordinance of the Town of Damascus, Virginia," together with the adoption date of this ordinance.

6.2-2. If, in accordance with the provisions of this ordinance and the Code of Virginia, changes are made in district boundaries or other matter portrayed on the official zoning map, the changes shall be entered on the official zoning map promptly after the amendment has been approved by the town council.

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6.2-3. No amendment to this ordinance which involves a matter portrayed on the official zoning map shall become effective until such change has been made on the map.

6.2-4. No changes of any nature shall be made in the official zoning map or matters shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind shall be considered a violation of this ordinance and punishable as specified in section 5.2.

### **Sec. 6.3. Interpretation of the official zoning map.**

When uncertainty exists as to the boundaries of districts shown on the official zoning map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines;
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- c. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits;
- d. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- e. Boundaries indicated as approximately following the centerlines of streams or other bodies of water shall be construed to follow such centerlines;
- f. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- g. Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections "a" through "f" above, the board of zoning appeals shall interpret the district boundaries. (See article 18.)

## **ARTICLE 7. ESTABLISHMENT AND PURPOSE OF DISTRICTS**

In order to implement all purposes and provisions of this ordinance, the lands within the corporate limits of the Town of Damascus, Virginia, are divided into the following districts, the purpose of which are as follows:

### **Sec. 7.1. Residential districts.**

The residential districts established in this ordinance are designed to promote and protect the health, safety and general welfare by encouraging the following goals for growth:

- a. Provide sufficient space in appropriate locations for residential developments to adequately meet the housing needs of the present and expected future population and provide a variety of choices in site selections;
- b. Permit improved movement on the public ways and effectively utilize existing public ways, and, as far as possible, mitigate the effects of heavy traffic and more particularly all through traffic in residential areas;

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- c. Protect residential areas against flood, fire, explosions and other dangers;
- d. Protect residential areas against undue congestion, as far as possible, by regulating the density of population, the intensity of activity, and the bulk of buildings in relation to the surrounding land and to one another, and by providing for off-street parking spaces for automotive vehicles;
- e. Provide for access of light and air to windows and for privacy, as far as possible, by controls over the height of buildings and structures;
- f. Provide appropriate space for public and private educational, religious, recreational, and similar facilities and public utilities which serve the needs of nearby residents and coordinate the intensity of residential land use with the appropriate community facilities; and
- g. Provide the most desirable use of land in accordance with the comprehensive plan in order to protect the character of residential neighborhoods, conserve the value of land and buildings, and protect the community's tax revenues.

7.1-1. *R-1 single-family districts.* This district is designed to provide suitable areas for single family dwelling units only where necessary community services and facilities, public utilities and open spaces which serve the residents of the district are available or where the extension of these facilities is physically and economically feasible, and serve the residents of the district. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations shall be permitted if they otherwise conform to the provisions of this ordinance.

7.1-2. *R-2 single-family and multifamily residential districts requiring site plan review.* This district is designed to provide suitable areas for single or multifamily residential development in areas where necessary community services and facilities are available or where the extension of these facilities is physically and economically feasible. It is the intent of this district to allow multifamily dwelling units in a building provided there is sufficient lot area, parking room and open space in the lot relative to the number of dwelling units. This district also includes community facilities, public utilities and open spaces which serve the residents of the district. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations shall be permitted if they otherwise conform to the provisions of this ordinance.

7.1-3. *R-3/MHP mobile home park residential district requiring site plan review.* This district is designed to provide suitable areas for residential development and mobile home park residential development where appropriate community services and facilities are provided or where the extension of such facilities will be physically and economically feasible. This district will be characterized by multi-family dwellings, and single-family mobile home dwellings in mobile home parks, and accessory structures. This district will also include community facilities, public utilities and open space uses which serve the residents of the district. Home occupations specifically provided for in these regulations shall be permitted if they otherwise conform to the provisions of this ordinance. Special provisions for mobile homes and mobile home parks are outlined in Chapter 10.

### **Sec. 7.2. Commercial districts.**

The commercial districts established by this ordinance are designed to promote and protect the health, safety and general welfare by encouraging the following goals for growth:

- a. Provide sufficient space for the many and diverse types of commercial activity needed to serve the people and industry of Damascus;

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- b. Promote the improvement and orderly growth of the existing well-located commercial centers;
- c. Protect adjacent residential and recreational areas from offensive and detrimental influences; and
- d. Promote the most efficient and desirable land use.

7.2-1. *C-1 core commercial district.* This district is designed to provide for a wide range of retail, office, and service uses normally found in a central business district. High intensity of use is permitted in this district, and increased building bulk is provided as a means of encouraging such development. This district is intended to be designed in a manner conducive to and safe for a high volume of pedestrian traffic. Since these activities tend to generate relatively large volumes of traffic and have other characteristics detrimental to residential districts, their locations should be removed from the proximity of residential districts as much as possible.

7.2-2. *C-2 general commercial district.* This district is designed to provide adequate space in appropriate locations for the establishment of a wide variety of uses including commercial trades and services, entertainment facilities, offices and establishments engaged in wholesale trade. Since these activities tend to generate low to moderate volumes of traffic, uses and buildings in this district should be screened and designed appropriately to abut residential districts.

7.2-3. It shall be unlawful for any real property owner, tenant, or other person to permanently board up any window in any building in the C-1 core commercial district, C-2 general commercial district or C-3 downtown commercial district.

7.2-4. *C-3 downtown commercial district.* This district is designed to provide for the specific land use types generally associated with historic, central business districts, while allowing flexible use of space for a diverse range of uses as development and redevelopment occurs. High intensity of use is permitted in this district, and increased building flexibility is provided as a means of encouraging such development. As such, this district is intended to be designed in a manner conducive to and safe for a high volume of pedestrian traffic. Specific parking regulations for this district include:

- a. The number of off-street parking spaces required for a new use, new structure, or expanded structure to be prescribed by the zoning administrator.
- b. At a minimum, one off-street parking place shall be provided for each unit serving transient or semi-transient guests for all development, excluding reconstruction of substantially damaged structures.

### **Sec. 7.3. Industrial district.**

The industrial district established by this ordinance is designed to promote and protect the health, safety and general welfare by encouraging the following goals for growth:

- a. Provide sufficient space in appropriate locations which are adequately served by community facilities to meet the needs for industrial expansion in Damascus;
- b. Encourage industrial development which is free from hazards to the public health and which is environmentally safe and nonpolluting;
- c. Protect industrial activities against congestion, encroachment from incompatible land uses and other adverse characteristics;
- d. Protect adjacent residential and commercial areas from incompatible land uses and offensive influences; and
- e. Promote the most efficient and desirable use of land.

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In accordance with these goals, the industrial district is designed to provide space for a limited range of industrial uses which have high performance standards and the least objectionable characteristics. In this district, all industrial operations shall be carried on within completely enclosed neighboring properties. Residential uses are excluded from this district. Only those community facility [facilities] and commercial uses which are essential to provide needed services for industry are permitted in this district.

### **ARTICLE 7A. FLOODPLAIN OVERLAY DISTRICTS<sup>\*</sup>**

#### SECTION I. GENERAL PROVISIONS

##### **Sec. 7A.1. Purpose.**

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood prone areas to be protected and/or floodproofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

##### **Sec. 7A.2. Applicability.**

These provisions shall apply to all lands within the jurisdiction of the Town of Damascus and identified as being in the 100-year floodplain by the Federal Emergency Management Agency.

##### **Sec. 7A.3. Compliance and liability.**

- A. No land shall hereafter be developed, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts, or that land uses permitted within districts will be free from flooding or flood damages.

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<sup>\*</sup> **Cross reference**— Floods, ch. 30.

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- C. This ordinance shall not create liability on the part of Damascus or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **Sec. 7A.4. Abrogation and greater restrictions.**

This ordinance supersedes any regulations currently in effect in flood prone areas. However, any underlying regulation shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

### **Sec. 7A.5. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

### **Sec. 7A.6. Penalties.**

- A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the building inspector or any other authorized employee of the Town of Damascus shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this ordinance may be declared by the Town of Damascus to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

## SECTION II. ESTABLISHMENT OF FLOODPLAIN DISTRICTS

### **Sec. 7A.7. Description of districts.**

The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for the Town of Damascus prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated March 16, 1988, as amended September 29, 2010.

- A. *F-1.* The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are especially defined in table 3 of the above-referenced flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map.
- B. *F-2.* The Flood Fringe District shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year

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flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown the accompanying flood boundary and floodway map or flood insurance rate map.

### **Sec. 7A.8. Official floodplain map.**

The boundaries of the floodplain districts are established as shown on the Town of Damascus Flood Insurance Rate Map which is declared a part of this ordinance and which shall be kept on file at the town hall.

### **Sec. 7A.9. District boundary changes.**

The delineation of any of the floodplain districts may be revised by the Town of Damascus where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for possibility for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

### **Sec. 7A.10. Interpretation of district boundaries.**

Initial interpretations of the boundaries of the floodplain districts shall be made by the building inspector. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

## SECTION III. DISTRICT PROVISIONS

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable codes, laws and ordinances such as the Virginia Uniform Statewide Building Code. Prior to the issuance of any such permit, the building inspector shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this municipality, approval shall be obtained from the division of soil and water conservation (Department of Conservation and Recreation). Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notification shall be provided to the division of soil and water conservation (Department of Conservation and Recreation) and the Federal Insurance Administration (Federal Emergency Management Agency).

### **Sec. 7A.11. Application.**

All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- A. For structures that have been elevated, the elevation of the lowest floor (including basement).

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- B. For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.
- C. The elevation of the 100-year flood.

### **Sec. 7A.12. Floodway district.**

In the floodway district, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.

### **Sec. 7A.13. Flood fringe and approximated floodplain districts.**

In the flood fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of this ordinance provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

### **Sec. 7A.14. Design criteria for utilities and facilities.**

- A. *Sanitary sewer facilities.* All new or replacement sanitary sewage [sewer] facilities and private package sewage treatment plants including all pumping stations and collector systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges form [from] the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- B. *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.
- C. *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The Town of Damascus may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- D. *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- E. *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

## SECTION IV. EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

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- A. Existing structures and/or uses located in the floodway district shall not be expanded or enlarged unless certification with supporting technical data by a registered engineer is provided demonstration [demonstrating] that encroachments shall not result in any increase in flood levels during occurrences of the base flood discharge, which have been approved by all appropriate local and/or state authorities, as required above.
- B. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain district, to an extent or amount of less than 50 percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- C. The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of its market value, shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
- D. Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

### SECTION V. SPECIAL EXCEPTIONS AND VARIANCES; ADDITIONAL FACTORS TO BE CONSIDERED

Whenever any person is aggrieved by a decision of the building inspector with respect to the provisions of this ordinance, it is the right of that person to appeal to the Board of Zoning Appeals for a special exception. Such appeal must be filed, in writing, within 30 days after the determination by the building inspector. Upon receipt of such an appeal, the Board of Zoning Appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten nor more than 30 days from the date of the receipt of the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination by the Board of Zoning Appeals shall be final in all cases.

In passing upon applications for special exceptions and variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger of life and property due to increased flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development, or activity within the floodway district that will cause any increase in flood levels during the 100-year flood.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation system and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

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- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- L. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Special exceptions and/or variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in:

- (a) Unacceptable or prohibited increases in flood heights;
- (b) Additional threats to public safety;
- (c) Extraordinary public expense; and will not
- (d) Create nuisances;
- (e) Cause fraud or victimization of the public; or
- (f) Conflict with local laws or ordinances.

Special exceptions and/or variances shall be issued only after the Board of Zoning Appeals has determined that the special exception and/or variance will be the minimum required to provide relief from any hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a special exception and/or variance, in writing, that the issuance of a special exception and/or variance to construct a structure below the 100-year flood elevation:

- (a) Increases the risks to life and property; and
- (b) Will result in increased premium rates for flood insurance.

A record of the above notification as well as all special exceptions and/or variance actions, including justification for their issuance, shall be maintained and any special exceptions and/or variances shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

## **ARTICLE 7B. GREEN-SPACE DISTRICT**

### **Sec. 7B.1. Purpose.**

The purpose of these provisions is for the promotion of healthy lifestyles and family-friendly spaces. These provisions are designed to create permeable lands to resist flooding, and to provide for the effective use of land otherwise unsuitable for residential or commercial development.

### **Sec. 7B.2. Applicability.**

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These provisions shall apply to all lands within the jurisdiction of the Town of Damascus and identified as being zoned as part of the *G-1 green-space district*.

**Sec. 7B.3. Uses.**

*A. Principal permitted uses.*

Structures such as gazebos, stages, or pavilions;  
 Recreational facilities such as basketball courts, tennis courts, skate parks and baseball fields.

*B. Permitted accessory uses.*

Parking lots and public restroom facilities;  
 Informational structures such as kiosks, signs and poles;  
 Accessory structures customarily incidental to the above permitted uses.

*C. Prohibited uses.*

Residential and commercial uses and facilities;  
 Any use not allowed by right or accessory use is prohibited in the G-2 green-space district.

**Sec. 7B.4. Bulk regulations.**

These bulk regulations apply to all uses or structures located on any lot, including all new developments, enlargements, extensions or conversions located within the G-1 district.

- A. Height, maximum.* No building or structure shall be constructed or erected which contains more than one (1) finished floor, whether designed for storage space, human occupancy or otherwise.
- B. Public access.* Pedestrian and bicycle access shall not be limited beyond what is deemed feasible for the safety and welfare of the public.
- C. Light pollution.* Lighting shall be designed to reduce 1) the inadvertent brightening of the night sky and 2) excessive interference with adjoining properties.
- D. Surfacing.* All parking areas or pedestrian/bicycle access routes shall be surfaced with permeable materials, unless such materials would otherwise cause a hazard to safety of the public.
- E. Landscaping.* All landscaping shall be undertaken in a manner natural to the surrounding eco region. No invasive species shall be introduced or permitted to flourish.

**ARTICLE 8. USE REGULATIONS**

P - Principal Permitted Use C - Conditional Use (Article 16) A - Permitted Accessory Use (20.2) Uses Not Noted in Tables Are Prohibited	<i>DISTRICT</i>								
	<i>Use</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3/MHP</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I</i>	<i>F-1/2</i>

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P - Principal Permitted Use C - Conditional Use (Article 16) A - Permitted Accessory Use (20.2) Uses Not Noted in Tables Are Prohibited	<i>DISTRICT</i>								
	<i>R-1</i>	<i>R-2</i>	<i>R-3/MHP</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I</i>	<i>F-1/2</i>	<i>G-1</i>
Use									
Accessory Structure (20.2)	A	A	A	A	A	A	A		
Automotive Service (20.4)					P	C			
Campground*					P		C		A
Community Education (20.11)		P	P		P	C			
Construction Sales and Service (20.14)				C	P	C	P		
Convenience Sales and Service Business (20.15)				P	P	P	P		
Financial Institution (20.25)				P	P	P			
General Personal Service (20.32)				P	P	P			
Home Occupations (20.33)	A	A	A	A	A	A			
Hospitals (20.34)				P	P				
Library (20.39)	P	P		P	P				
Manufactured Home (20.48)			P						
Manufacturing (20.50)							P		
Mobile Home (20.51) (Also article 10)			P						
Modular Home (20.55)	P	P	P						
Multifamily, Dwelling (20.20)		P	P	P	P	P			
Off-Street Parking and Loading (articles 12 and 13)	A	A	A	A	A	A	A	P	P
Place of Worship (20.58)	P	P	P	P	P	P			
Private Recreation Facility (20.61)	A	A	A					P	
Professional Office and Clinic (20.10, 20.62)	C	C		P	P	P			

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P - Principal Permitted Use C - Conditional Use (Article 16) A - Permitted Accessory Use (20.2) Uses Not Noted in Tables Are Prohibited	<i>DISTRICT</i>								
	<i>R-1</i>	<i>R-2</i>	<i>R-3/MHP</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I</i>	<i>F-1/2</i>	<i>G-1</i>
Public Buildings				P	P	P			A
Public Park or Playground	P	P	P	P	P	P		P	P
Restaurants (20.64)				P	P	P	P		
Retail Stores and Shops (20.66)				P	P	P	P		
Signs (article 14)	A	A	A	A	A	A	A	A	A
Single-Family Detached Dwelling (20.21)	P	P	P	P	P	P			
Site Plan Review Required (article 11)		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tents (20.76) *	A	A	A	A	A	A	A	A	A
Transient and Semi-transient Habitation (20.67, 20.78)	C	C	C	P	P	P	C		
Two-Family Dwelling (20.22)		P	P	P	P	P			
Utility Facilities (20.84)		C	P	P	P	P			C
Veterinary Institution or Kennel (20.37)				C	P		C		
Wholesale Sales (20.85)				P	P		P		

NOTE: For clarification see section in parenthesis.

<sup>1</sup>Permitted uses are subject to provisions of the existing underlying districts.

\*Tenting shall be allowed as follows:

- a) Non-commercial tenting shall be allowed at all times, and in any district, provided that, on any lot, no more than two tents are erected for no longer than seven days in the aggregate in any calendar month, provided further however that no more than five tents shall be allowed on the following holidays: Trail Days (Wednesday – Monday), Memorial Day weekend, Fourth of July, and Labor Day weekend. Non-commercial tenting means that no consideration or remuneration of any kind is either accepted or given by any person at any time.
- b) Commercial tenting shall be allowed only on the holidays referenced above and only in the districts as noted, provided that, on any lot, no more than ten tents of any size shall be erected on any lot. A Land Use Permit must be obtained prior to any commercial tenting activity. Commercial tenting

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means any tenting activity for which a charge or remuneration of any kind is either accepted or given at any time.

- c) Tents shall be allowed at any time in a permitted campground, so long as the campground is only in the districts noted, has a valid permit from the Virginia Health Department, the campground is screened from all adjacent residentially zoned properties, a minimum number of ten (10) parking spaces (sec. 13.4) are available, tents are placed no closer than 5 feet from any other tent or structure and tents are no closer than 20 feet from any lot line.

### ARTICLE 9. BULK REQUIREMENTS

#### Sec. 9.1. Table of requirements.

The following requirements shall be observed for each district in this ordinance.

District	Minimum Site Size (sq. ft.)	Required Setback Line - Minimum Dimensions		
		Front Yard <sup>1</sup> (ft.)	Side Yard (ft.)	Rear Yard (ft.)
R-1 Single-Family (with public water and public sewer)	10,000 (or 0.229 acres)	30	10	10
R-2 Single-Family and Multifamily (with public water and public sewer)	10,000 (or 2,500 sq. ft. per dwelling unit, whichever is greater) / 0.229 acres	30	20	20
R-3 Mobile Home Park Residential				
Mobile Home Park	5 acres	—	—	—
Mobile Home Lot	4,500 (individual plot)	15	15	15
Other Uses in Park	10,000	30	15	15
C-1 Core Commercial	—	—	(10)**	(10)**
C-2 General Commercial	15,000	—	(10)**	(10)**
C-3 Downtown Commercial	---	---	(15)**	(15)**
I Industrial	—	20	20 (50)**	20 (50)**

<sup>1</sup>On double-frontage and corner sites, there shall be a front yard on each street.

\*\*When abutting a residential district, the minimum setback requirements in parentheses shall apply.

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### Sec. 9.2. Requirements applicable to all districts.

9.2-1. *Visibility at intersections.* On a corner lot in any district, except the core commercial district, nothing shall be erected, placed, planted or allowed to be grown in such a manner as to impede vision between a height of 2½ and ten feet above the centerline grades within 15 feet of the intersecting streets.

9.2-2. *Fences, walls and hedges.* Fences, walls and hedges may be permitted in any required yard or along the edge of any yard so long as it does not encroach on any public right-of-way, and also except as prohibited in section 9.2-1. Fences or walls in R-1 and R-2 districts shall not be more than 72” in height and shall be constructed of normal residential materials, such as chain-link, pickets, and the like.

9.2-3. *Use of required yard area.* Required yard areas may be occupied by driveways, loading, parking and sidewalks unless otherwise specified in this ordinance. All yards not occupied by such uses shall be devoted to landscaping as defined in section 20.38.

9.2-4. *Accessory buildings.* No accessory building may be erected in a front yard, or within five feet of any other building or within five feet of a property line.

9.2-5. *Structures to have access.* Every structure shall be on a lot fronting a public street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.

9.2-6. *Parking, storage or use of major recreational equipment.* No major recreational equipment or vehicle shall be parked or stored in any front yard of any lot in any residential district more than 72 hours.

9.2-7. *One principal building on any lot.* Only one principal building and its accessory buildings shall be erected on any lot.

9.2-8. *Residence, temporary.* No recreational vehicle, trailer, garage, barn or other similar vehicle, building or structure erected on any lot shall be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted for more than ten (10) consecutive days except as otherwise permitted or restricted.

9.2-9. *Height, maximum.* No building or structure shall be constructed or erected which contains more than three (3) finished floors above ground level, whether designed for storage space, human occupancy or otherwise.

## ARTICLE 10. R-3/MHP MOBILE HOME PARK RESIDENTIAL DISTRICTS

### Sec. 10.1. Purpose and intent.

This district is designed to provide suitable areas for mobile home park residential development (including manufactured home dwellings) where appropriate community services and facilities, public utilities, and open spaces are provided or where the extension of such facilities will be physically and economically feasible. This district is characterized by single family mobile home and manufactured home dwellings in mobile home parks, and accessory structures. Home occupations specifically provided for in these regulations shall be permitted if they otherwise conform to the provisions of this ordinance.

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### **Sec. 10.2. Uses.**

#### *A. Principal permitted uses.*

Mobile home and manufactured home dwelling in mobile home park.

Place of worship.

#### *B. Permitted accessory uses.*

Private garages and parking areas;

Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for the use of the residents;

Customary home occupations as defined and subject to the provisions of this ordinance;

Accessory structures customarily incidental to the above permitted uses.

#### *C. Prohibited uses.* Any use not allowed by right or accessory use is prohibited in the MHP mobile home park residential district.

### **Sec. 10.3. Bulk regulations.**

These bulk regulations apply to all buildings or other structures located on any lot, including all new developments, enlargements, extensions or conversions located in any MHP district.

*A. Minimum required lot area.* Within all MHP districts, the minimum required lot area for a mobile home park shall be five acres.

*B. Minimum mobile home plot size.* The minimum plot size for an individual mobile home in the mobile home park shall be 4,500 square feet and served by public sewer.

### **Sec. 10.4. Yard requirements.**

There shall be a minimum of 15 feet between the front, back and sides of any mobile home and the edges of the lot upon which it is situated. In the event that more than one mobile home is located upon a lot, there shall be a minimum of 30 feet between mobile homes.

### **Sec. 10.5. Special provisions for mobile homes.**

Due to the unique characteristics of mobile homes, the following restrictions are applied to eliminate their adverse effects, including potential hazards, and permit such structures as an alternative form of housing:

Any residential mobile home located within the Town of Damascus shall be a minimum of 15 feet in length and a minimum of 7 feet in width.

All mobile homes shall be underpinned, and axles and wheels shall be covered. The trailer hitch shall be removed if it is removable or shielded if not removed. All mobile homes shall be set on firm blocks at a minimum depth of 14 inches. Each mobile home shall be anchored with approved anchors.

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All residential mobile homes shall be permitted only in those locations designated on the zoning map as MHP mobile home park residential district.

All residential mobile homes or manufactured homes shall be newer than 15 years in age when placed within the town limits of Damascus.

### **Sec. 10.6. Regulations for establishment of mobile home park.**

- A. *Licenses and license fees.* No mobile home may be located in the Town of Damascus unless the same shall be in an approved and duly licensed mobile home park.

It shall be unlawful for any person to maintain or operate within the corporate limits of the Town of Damascus any mobile home park unless such person shall first obtain a zoning and occupancy permit for the park. (The Washington County Health Department also requires a permit to operate an MHP.)

- B. *Application for license.* Applications for a mobile home park zoning permit shall be filed with and issued by the zoning administrator. Applications shall be in writing signed by the applicant and shall contain the following:

- (1) The name and address of the applicant.
- (2) The location and legal description of the mobile home park.
- (3) A complete plan of the park showing compliance with section 10.8 of this ordinance.
- (4) Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park. The sketch shall be drawn to scale showing the number and arrangement of mobile home lots, roadways, water supply, water outlets, location and type of sewage, liquid and garbage disposal and location of other facilities.
- (5) Such further information as may be requested by the zoning administrator for determination of compliance with this ordinance.

The zoning administrator, Planning Commission, Washington County Health Department, Washington County Building Inspector, and the Town Council shall review the proposed plans and specifications.

### **Sec. 10.7. Reserved.**

### **Sec. 10.8. Specifications for mobile home park plan.**

The mobile home park shall conform to the following requirements:

- A. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water. The zoning administrator may, in his or her discretion, require an engineer's certificate to ensure compliance.
- B. The minimum required lot area for a mobile home park shall be five acres.
- C. The minimum plot size for an individual mobile home in the mobile home park shall be 4,500 square feet.
- D. All mobile home spaces shall abut upon a driveway of not less than 30 feet in width with unobstructed access to a public street.

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- F. An electric outlet supplying 100 and 220 volts shall be provided for each mobile home space and shall apply with all applicable building code regulations, whether state, county or town. All electrical installations shall be in compliance with the National Electrical Code. Each mobile home shall have a separate electrical meter.
- G. An adequate supply for water under pressure from a source and of a quality approved by the Virginia Department of Health shall be provided; local water authority shall be used. Water shall be piped and metered separately to each mobile home lot.
- H. Liquefied petroleum gas for cooking purposes shall not be used at individual mobile home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders shall be securely fastened and adequately protected from the weather. No cylinder containing liquefied petroleum gas shall be located in a mobile home, nor within five feet of a door thereof.
- I. Waste from laundries shall be discharged into a public sewer in compliance with applicable ordinances. All kitchen sinks, washbasins, bath or shower tubs in any mobile home in any park shall empty into the sanitary sewer drain located on the mobile home space. Mobile home parks shall connect to the municipal sewer with approved and sized lines. No storm drains or roof drainage shall be discharged into the public sewer.
- J. Refuse storage, collection and disposal shall be in accordance with other regulations and ordinances of the Town of Damascus.
- K. The mobile home park shall be subject to the rules and regulations of the fire prevention authorities having jurisdiction.
- L. No permanent additions of any kind shall be built onto, nor become a part of, any mobile home, without approval from the Damascus Zoning Administrator.
- M. All service buildings, mobile homes, mobile home spaces and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any conditions that will menace the health of any occupant or the public or constitute a nuisance.
- N. All mobile homes shall be set in accordance with HUD approved manufacturer's specifications.

## **ARTICLE 11. REGULATIONS FOR SITE PLAN REVIEW**

### **Sec. 11.1. General provisions.**

A special site plan review is required for all building construction in all districts except the single-family residential district (R-1). No zoning permit will be issued in any district until the proposed site development plan has been reviewed by the Damascus Planning Commission and approved by the Damascus Town Council.

### **Sec. 11.2. Purpose.**

The site plan review procedure is required in order to make sure that development will not affect the health, safety, or general welfare of the residents of Damascus in an adverse manner. Specifically, this section allows the planning commission and town council to identify at an early stage proposed activities which would cause traffic hazards, flooding, noise, or other nuisances.

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**Sec. 11.3. Site plan specifications.**

For all proposed development requiring a site plan review, a site plan for the use and development of the entire tract shall be submitted to the zoning administrator. The site plan shall conform to any other requirement contained in this ordinance, as well as the following requirements:

1. Be drawn to a scale of at least one inch equals 50 feet;
2. Include the following:
  - a. All information required under section 4.3
  - b. All existing and proposed roads and drainage ways;
  - c. Curb cuts, drives and parking and loading areas;
  - d. Landscaping and planting screens;
  - e. Building lines enclosing the portion of the tract within which buildings are to be erected;
  - f. The proposed use of the land and buildings; and
  - g. The existing zoning.
3. Include a vicinity map showing the relationship of the proposed development to:
  - a. The surrounding use districts; and
  - b. Surrounding properties.
4. Bear a certificate by a licensed civil engineer, architect, surveyor, or building inspector certifying that the plan as shown is true and correct.
5. Bear a form for certificate of approval by:
  - a. The planning commission.
  - b. The town council.
6. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.

**Sec. 11.4. Site plan review.**

The zoning administrator shall forward the site plan to the planning commission for review and approval. The town council shall also review and approve the application, and may review and reverse Planning Commission approvals.

_____ APPLICANT _____	
Application	

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<p>_____</p> <p>ZONING ADMINISTRATOR</p> <p>_____</p>	<p>Zoning administrator forwards site plan to planning commission.</p>
<p>Site Plan</p>	
<p>_____</p> <p>PLANNING COMMISSION</p> <p>_____</p>	<p>Planning commission shall review and approve site plan or state reasons for disapproval.</p>
<p>Approval or Disapproval</p>	
<p>_____</p> <p>TOWN COUNCIL</p> <p>_____</p>	<p>Town council shall review and approve the application and may review and reverse planning commission approvals.</p>
<p>Approval or Disapproval</p>	
<p>_____</p> <p>ZONING ADMINISTRATOR</p> <p>_____</p>	<p>If site plan is approved by planning commission and town council, then zoning administrator issues appropriate permits.</p>

**Sec. 11.5. Procedure for site plan review.**

The zoning administrator shall forward the site plan to the planning commission which shall review and approve the site plan or state reasons for disapproval to the applicant.

**Sec. 11.6. Additional requirements for approval of site plan.**

11.6-1. *Commercial districts.*

- a. All uses shall be conducted within completely enclosed buildings except for parking, and loading; exterior storage and other accessory uses as set forth in the site plan.

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- b. The placement of solid waste storage containers is permitted in rear yards only, and such facilities shall be appropriately screened and maintained in a safe and sanitary manner.

### 11.6-2. *Industrial district.*

- a. All uses shall be conducted within completely enclosed buildings except for parking, loading, and other accessory uses which by their nature must exist outside a building.
- b. Exterior storage may be permitted in the side and rear of the principal building only, provided the location, extent and screening of storage is approved as a part of the site plan by the planning commission; and further, provided that exterior storage shall be screened from public view by a suitable fence, wall or hedge not exceeding eight feet in height with the stored materials to be kept at least two feet below the top of such screen.
- c. All storage areas shall be surfaced. All areas shall be graded and drained so as to dispose of all surface water in the area.
- d. The location of solid waste storage containers shall be located in rear yards only, and such facilities shall be appropriately screened and maintained in a safe and sanitary manner.

11.6-3. *R-2/ R-3 residential districts.* Development shall conform to all general requirements of previously defined residential districts (see article 7) with only the addition of the site plan review procedure to assure the protection of health, safety, and general welfare.

## **ARTICLE 12. OFF-STREET LOADING REQUIREMENTS\***

### **Sec. 12.1. General provisions.**

The following provisions for accessory off-street loading berths are adopted in order to provide needed space off public streets for loading and unloading activities, to limit the use of streets for such purposes, to help relieve traffic congestion in commercial areas, and thus to promote and protect the public health, safety and general welfare.

### **Sec. 12.2. Applicability.**

The provisions of this ordinance on accessory off-street loading regulations shall apply to community facility, commercial, and industrial uses permitted by right, by accessory use or by conditional use in all districts.

### **Sec. 12.3. Requirements for off-street loading berths.**

Off-street loading berths and access ways to loading berths shall be situated so that pedestrian and vehicular traffic is not adversely affected.

### **Sec. 12.4. Size of required berths.**

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\* **Cross reference**— Motor vehicles and traffic, ch. 34.

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Off-street loading berths, opened or enclosed, shall have minimum dimensions of: length - 55 feet; width - 12 feet; and vertical clearance - 15 feet.

### **Sec. 12.5. Location of access to the street.**

The entrances and exits to all off-street loading berths shall be located at least 50 feet from the intersection of any two streets.

### **Sec. 12.6. Surfacing.**

All off-street loading berths shall be surfaced with asphalt, concrete or other hard-surfaced dustless material, and constructed so as to provide for adequate drainage and prevent the release of dust.

### **Sec. 12.7. Screening.**

All off-street loading berths located adjacent to residences or a residential district shall be screened from the adjoining residential district, by either:

- a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or
- b. A wall or barrier of uniformly painted fence of fire-resistant material, at least six feet high but not more than eight feet high, as measured from the finished grade. Such wall, barrier or fence may be opaque or perforated provided that not more than 50 percent of the fence is open.

In addition, such screening:

- a. Shall be maintained in good condition at all times;
- b. Shall not be located within 15 feet of normal vehicular entrances and exits; and
- c. Shall have no signs hung or attached thereto.

### **Sec. 12.8. Location.**

All off-street loading facilities shall be located to the side or in the rear of the principal building.

## **ARTICLE 13. OFF-STREET PARKING REQUIREMENTS\***

### **Sec. 13.1. Off-street requirements.**

In all districts except *C-3 downtown commercial district* (see article 7), off-street parking shall be provided in accordance with the following provisions as a condition precedent to the use.

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\* **Cross reference**— Motor vehicles and traffic, ch. 34.

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**Sec. 13.2. Space requirements for off-street parking.**

In the case of a fraction, the number of required off-street parking spaces shall be rounded off to the nearest whole number.

13.2-1. *Residential dwelling.* Two spaces per dwelling unit.

13.2-2. *Place of worship.* The number of spaces to be prescribed by the zoning administrator.

13.2-3. *Community education, visitor or information center.* The number of spaces to be prescribed by the zoning administrator.

13.2-4. *Community and group assembly.* The number of spaces to be prescribed by the zoning administrator.

13.2-5. *Library, public park, playground, or utility facility.* The number of spaces to be prescribed by the zoning administrator.

13.2-6. *Commercial use.* One off-street parking space shall be provided for the specified number of square feet of gross floor area for the following activities:

<i>Activity</i>	<i>Gross Floor Area (Square Feet)</i>
Retail Sales, Convenience Sales and Service	150
Professional Office	150
Animal Care	150
General Personal Service	300
Financial Institution	400
Automotive Repair and Cleaning Vehicular, Craft and Related Equipment Sales, Rental and Service	500
Construction Sales and Service	1,000
Wholesale Sales	1,000
Transportation	5,000
Warehousing	10,000

[13.2-7. Reserved.]

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13.2-8. *Mortuary service.* One space per 1,000 square feet of gross floor area, and when a chapel is provided, one space for every four permanent seats plus one space for every 25 square feet of floor area where temporary seats are used, whichever requires the greater number of spaces.

13.2-9. *Transient habitation.* One space for each unit in a building serving transient guests.

13.2-10. *Industrial use.* One space shall be provided for every 1,500 square feet of gross floor area or one space for every three employees during a single shift or two successive shifts, whichever requires the greater number of spaces.

### **Sec. 13.3. Additional regulations for off-street parking.**

13.3-1. *Building containing two or more uses.* When a building or lot contains two or more uses having different parking requirements, the parking requirements for each type of use shall apply to the extent of that use.

13.3-2. *Operation of off-street parking spaces.* Off-street spaces shall be designed and operated exclusively for the parking of motor vehicles used by the visitors, occupants, employees, patrons or customers of the use associated with the parking facilities.

13.3-3. *Area of off-street parking spaces.* Each off-street parking space, open or enclosed, shall be a minimum of eight feet wide and 18 feet long exclusive of drives, ramps, and aisles.

13.3-4. *Off-site parking requirements.* Off-street parking must be on the same lot as the principal use except where there is no way to arrange the spaces on the same lot as the principal use provided that:

- a. The spaces are located to draw a minimum of vehicular traffic to and through streets having predominately residential frontage;
- b. The spaces are located no further than 200 feet from the nearest boundary of the lot occupied by facility to which the spaces are accessory;
- c. The spaces are in the same fee simple ownership as the use to which the spaces are accessory; and
- d. The spaces conform to all applicable district regulations of both the district in which the principal use is located and in the district in which the spaces are located. In the event of conflict between the applicable district regulations, the most restrictive shall prevail.

### **Sec. 13.4. Design of off-street parking spaces.**

13.4-1. *Location of access to the street.* The entrances and exits of all required or permitted accessory off-street parking facilities with five or more spaces shall be located as far as possible from the intersection of any two streets.

13.4-2. *Surfacing.* All off-street parking areas shall be surfaced with asphalt, concrete or other hard-surfaced material and so constructed to provide for adequate drainage and prevent the release of dust.

13.4-3. *Screening.* Open off-street parking areas with five or more parking spaces which are located on a lot adjacent to the boundary of a residential district shall be screened from the residential district by either:

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- a. A strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting, and which are of a type which may be expected to form a year-round dense screen at least eight feet high within three years; or
- b. A wall or barrier or uniformly painted fence of fire-resistant material at least eight feet in height. Such wall, barrier, or fence may be opaque or perforated provided that not more than 50 percent of the fence is open.

In addition, such screening:

- a. Shall be maintained in good condition at all times;
- b. Shall not be placed within five feet of the normal vehicular entrances and exits;
- c. Shall have no signs hung or attached thereto; and
- d. Shall not obstruct visibility of motorists at street intersections.

## ARTICLE 14. SIGNS

### **Sec. 14.1. Purpose.**

The provisions of this ordinance shall govern the use of signs in all zoning districts of Damascus

### **Sec. 14.2. Permit required.**

No person shall erect, construct, install or maintain any sign on, upon, or within the boundaries of any property without first submitting a drawing to the zoning administrator showing sign lettering dimensions, methods of attachment, the area in which the sign is to be located, and any additional information deemed necessary for the granting of a permit. Upon receiving written approval from the zoning administrator, the proposed sign may be installed/constructed.

### **Sec. 14.3. Maximum number.**

Any business or nonresidential use may have no more than one sign per street frontage. Small interior signs displaying hours of operation are excluded from the maximum limitation.

### **Sec. 14.4. Signs in residential districts.**

The only signs permitted in residential districts are signs which do not display a commercial message, excluding real estate signs advertising the property on which they are located as for sale, rent or lease, signs allowed without permit (section 14.7), or any signs attendant to a conditional use permit for semi-transient or transient housing, or temporary signs.

### **Sec. 14.5. General rules for placement and design of signs.**

14.5-1. *Prohibition of obstructive and misleading signs.* No sign may be arranged so that it interferes with traffic in any way, including but not limited to; through glare; through blocking of reasonable sight

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lines for streets, sidewalks or driveways; through confusion with a traffic control device (by reason of its color, location, shape, or other characteristics); or through any other means. No sign may be erected which misleads pedestrian or vehicular traffic, by meaning or direction. Rotating beacons and flashing signs are prohibited, excluding small interior signs and state approved traffic control devices.

14.5-2. *Prohibition of moving, changing and mobile signs.* No sign or any portion thereof shall be permitted which is designed to move except for the rotation of barber poles or movement of message boards. Changing signs and multiprism sign units are not permitted except for time and temperature signs. Mobile or trailer mounted signs are not permitted, except for temporary hazard warning signs utilized by the municipal body or a state or federal agency

14.5-3. *Location of signs.* That portion of a sign or a pole or standard of such sign which is in contact with the ground shall be within the lot lines of the property which it represents, not including applicable setbacks or public right-of-way, excluding real estate signs.

14.5-4. *Height of signs.* Signs shall not exceed the height of the structure housing the business advertised or 20 feet, whichever is less.

14.5-5. *Wall signs.* Wall signs for buildings shall not exceed 15% of the area of the wall facing street frontage.

14.5-6. *Overhanging signs.* Overhanging signs or projecting signs referring to business operated on the premises are permitted, provided that any such sign shall not be allowed to protrude more than 3½ feet from the building front, and shall not exceed one square inch for each square foot of that business store front, up to a maximum of 12 square feet. Under-canopy signs are permitted provided they do not exceed 250 square inches and allow a clearance of seven feet from sidewalk to bottom of sign.

14.5-7. *Window signs.* Window signs shall not obstruct more than 35 percent of the visible area of the window if opaque, or be less than 65 percent transparent if covering the entire window surface.

14.5-8. *Sandwich signs.* Moveable A-frame signs shall not be further than 15 feet from the door of the establishment advertised and shall only be allowed during operation hours of the business. Only one sandwich sign shall be allowed per business and no such sign shall be larger than 3 feet high by 1 ½ feet wide. No sandwich sign shall be placed in a manner as to impede traffic on public rights of way.

14.5-9. *Landscaping.* For freestanding signs above 5 feet in height, designed for advertising, the base of the sign shall be landscaped appropriately so as to discourage tampering with the structure of the sign and to foster good community appearance.

14.5-10. *Illumination.* All lighted signs will meet the requirements of the local electrical codes. Neon bulbs and filaments shall not be exposed. Internally illuminated signs shall be required to have an opaque background. Signs shall not be illuminated by strings of lights. Illumination of signs shall be in a manner which does not create light pollution which would affect neighboring properties or the safety of vehicular, pedestrian or bicycle traffic. The American Flag may be illuminated with spot lights.

### **Sec. 14.6. Nonconforming signs.**

Any advertising structure or sign which was lawfully erected and maintained prior to the adoption of this ordinance shall be allowed to remain as a nonconforming sign. Any previously nonconforming sign damaged to the extent that it represents a public hazard as determined by the zoning administrator or where damage exceeds 75 percent of the replacement costs shall be required to conform to the provisions of this

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ordinance. Signs advertising a business which changes ownership or ceases to do business must be removed within 90 days of the date of change of ownership or business closing.

### **Sec. 14.7. Signs allowed without permit.**

The following signs shall be allowed in all districts and are not counted toward the applicable limits on the number of signs allowed, provided that the sign otherwise meets the size limitations which are applicable. No signs allowed under this subsection, excluding traffic control signs, may be illuminated. Signs allowed without permit include:

- a) *Construction signs.* Such signs shall not exceed an area of 32 square feet and shall be removed once construction is completed.
- b) *Flags.* Flags of the United States of America, this commonwealth, or any official government organization and religious, charitable, fraternal, military or community service organization.
- c) *Identification signs.* Signs such as building numbers, addresses, private parking signs.
- d) *Political signs.* Signs expressing support for a candidate for public office or another position regarding a public figure or issue, but bearing no commercial message. Political signs shall be removed within 30 days after the applicable election.
- e) *Public art.* Street graphics and other forms of art such as, but not limited to, murals and sculptures that do not constitute any type of outdoor advertising of a commercial message, and are not displayed with profanity or nudity.
- f) *Indoor promotional signs.* Temporary business or promotional signs displayed inside a building or establishment, which are in view of the general public, including those attached to windows, for a period of less than 90 days.
- g) *Realty signs.* Signs advertising the premises for sale, rent or lease. Such signs shall not exceed 6 square feet in area and 4 feet in height for freestanding signs, and shall be located on the land or premises advertised.
- h) *Traffic control signs.* Traffic, municipal, legal notice, directional or informational signs; railroad crossing signs, danger, safety, temporary or emergency signs.
- i) *Yard sale signs.* Signs advertising a yard or garage sale, not to exceed 4 feet in height or 6 square feet in area per sign. Limited to 1 sign per lot, signs may not be erected for a period exceeding 1 week.
- j) *Memorial plaques or tablets.* Such items memorializing events or persons requiring Town Council approval.
- k) *Outdoor promotional signs.* Temporary business or promotional signs displayed outside a building or establishment, which are in view of the general public, for a period of less than 90 days.

## **ARTICLE 15. PROVISIONS GOVERNING NONCONFORMING USES**

### **Sec. 15.1. Statement of purpose.**

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In order to guide the development of compatible land use patterns in Damascus, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions of this article are designed to provide a gradual remedy for existing undesirable conditions which result from incompatible nonconforming uses. While such uses are generally permitted to continue, the provisions are designed to discourage further investment in or continuance of these uses.

### **Sec. 15.2. Applicability.**

The provisions of this article apply to all uses, signs, buildings and structures which are not permitted within the districts in which they are located. Any nonconforming use or structure which existed lawfully at the time of enactment of this ordinance, or any use which shall become nonconforming upon enactment of this ordinance and subsequent amendments, may be continued subject to the provisions of this article. For the purpose of this ordinance, a change in use is a change in the type of activity, however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

### **Sec. 15.3. Change of nonconforming use to conforming use.**

A nonconforming use may be changed to any conforming use. However, all applicable regulations and accessory off-street parking requirements shall apply to such change.

### **Sec. 15.4. Change of nonconforming use to nonconforming use.**

In all districts, a nonconforming use, building or structure may not be changed to another nonconforming use, building or structure.

### **Sec. 15.5. Discontinuance.**

No nonconforming use, structure, use of land or sign shall be reestablished after discontinuance of one year.

### **Sec. 15.6. Repairs, alterations and expansion of nonconforming structure or use.**

15.6-1. *Incidental alterations.* Incidental alterations as defined by this ordinance may be made to a building or structure occupied by a nonconforming use.

15.6-2. *Alterations other than incidental alterations.* No alterations other than incidental alterations shall be made to a building or other structure occupied by a nonconforming use except when made:

- a. In order to comply with requirements of law regarding fire protection, safety of structure, etc.
- b. In order to conform to the applicable district regulations.

15.6-3. *Repair of nonconforming use.* No nonconforming structure or structure used for a nonconforming use shall be rebuilt or repaired after damage exceeding 75 percent of replacement cost unless the use and structure conform to the other provisions of this ordinance.

15.6-4. *Expansion of nonconforming use.* No structure used for a nonconforming use shall be expanded except in conformity with this ordinance. The nonconforming use of land, not involving a building or

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structure, or involving a use or structure which is incidental or accessory to the principal use of the land, shall not be expanded beyond the area it occupies.

15.6-5. *Conditional use permit.* Nonconforming manufactured homes in place at the time of the enactment of this ordinance may be replaced by conditional use permit provided the new unit meets applicable department of housing and community development regulations and the Virginia Uniform Statewide Building Code and is no more than five years old.

### **Sec. 15.7. Nonconforming signs.**

(See section 14.6.)

### **Sec. 15.8. Existing structures in floodplain districts.**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued subject to the following conditions:

- a. Existing structures located in the floodway district shall not be expanded or enlarged unless certification (with supporting technical data) by a registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrences of the base flood discharge, which have been approved by all appropriate local and/or state authorities, as required in article 7A.
- b. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain district, to an extent or amount of less than or equal to 50 percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.  

The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of its market value, shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code and the National Flood Insurance Program.
- c. Uses of appurtenant or accessory structures thereof which are, or become, nuisances shall not be permitted to continue.

## **ARTICLE 16. CONDITIONAL USE PROVISIONS**

### **Sec. 16.1. General provisions.**

General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The board of zoning appeals may impose such other conditions and restrictions as may be necessary to reduce or minimize the injurious effect of the conditional use and ensure compatibility with surrounding property, and the board may also establish dates for the expiration of any conditional use permit as a condition of approval.

### **Sec. 16.2. Issuance of conditional use permit.**

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The board of zoning appeals shall hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Code of Virginia, § 15.2-2310.

### **Sec. 16.3. Application for conditional use permit.**

The application for a conditional use permit shall be made by the property owner or his designated agent, and filed in writing with the board of zoning appeals and shall contain information and exhibits as may be required by the board. Not more than 60 days after filing such applications, a hearing shall be held on the application. Notice of the hearing shall be in accordance with Code of Virginia, § 15.2-2204. A fee payable to the Town of Damascus shall be charged to defray costs of review and processing for each application for a conditional use permit, except that the fee shall be waived for any governmental agency. Upon approval by the board, the zoning administrator shall issue a use permit to the applicant as specified in article 4.

### **Sec. 16.4. General requirements.**

A conditional use permit may be granted provided the board finds that the conditional use:

- a. Is designed, located and operated so as the public health, safety and welfare will be protected;
- b. Will not adversely affect other property in the area in which it is located;
- c. Is within the provision of "conditional uses" as set forth in this ordinance; and
- d. Conforms to all applicable provisions of this ordinance for the district in which it is to be located.

### **Sec. 16.5. Specific standards.**

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit may be granted for the following uses when the following conditions are met as part of the condition for issuance of a permit:

#### *16.5-1. Specific conditions for utility facilities.*

- a. All of the bulk regulations of the zoning district shall apply.
- b. The location of the facility shall not materially increase traffic on surrounding streets.
- c. The location of the facility shall not have an adverse effect on surrounding properties.
- d. There shall be provided along the entire site boundaries fencing, screening and landscaping, as appropriate to protect the surrounding area.

#### *16.5-2. Specific conditions for residential unit in C-1 district and C-2 district.*

- a. The location of the facility shall not have an adverse effect on surrounding properties.
- b. There shall be provided along the entire site boundaries fencing, screening and landscaping, as appropriate to protect the enclosed area.

#### *16.5-3. Transient/semi-transient habitation in the R-1, R-2 and R-3 district.*

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Transient and semi-transient habitation may be permitted only as a conditional use in accordance with Article 8, Use Regulations.

- a. *No adverse effect.* The location, site, and design of such facilities shall be in keeping with the character of the surrounding area, and shall not have an adverse effect on properties within the surrounding area. The activity shall not create any additional noise, vibration, dust, fumes, odors, glare, other than those normally expected in a residential district.
- b. *Planning commission review.* The planning commission shall review and may approve site plans for any new facility to be constructed or any existing facility to be converted for this conditional use prior to the issuance of a conditional use permit.
- c. *Off-street parking.* One space for each unit in a building serving transient guests.
- d. *General conditions.* Proposed uses shall conform to the general bulk, yard, and site requirements.

### **Sec. 16.6. Conditional use permit appeals.**

Any person or any agency of the town government may appeal to the circuit court of the county to review the decision of the board of zoning appeals as provided under Code of Virginia, § 15.2-2314. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

## **ARTICLE 17. ADMINISTRATION OF VARIANCE PERMITS**

### **Sec. 17.1. Issuance of zoning variance.**

The board of zoning appeals shall hear and decide, in accordance with the provisions of this ordinance, requests for zoning variances.

### **Sec. 17.2. Application for zoning variance.**

An application for a zoning variance may be made by any property owner, tenant, government official, department, board or bureau. The application shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the board. Not more than 60 days after filing such application, a hearing shall be held on the application. Notice of the hearing shall be in accordance with the hearing procedures in Code of Virginia, § 15.2-2204. A fee payable to the Town of Damascus shall be charged to defray the cost of review and processing for each application for a variance, except that the fee shall be waived for any governmental agency.

### **Sec. 17.3. Notice to affected property owners.**

It shall be the general rule of the board that reasonable efforts shall be made to contact and notify interested parties who, in the opinion of the board, may be affected by any matter brought before the board. In all cases, all owners of record of adjoining property, including those separated by a public way from the premises in question, shall be notified. The notification required to meet this provision shall be accomplished by registered mail addressed to the respective owner at the address given in the latest tax records.

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### **Sec. 17.4. Standards for variances.**

The board shall not grant a variance unless it finds:

- a. That the property owner acquired the property in good faith, and that by reason of exceptional narrowness, shallowness, size or shape, or exceptional topographic conditions or other extraordinary conditions of the property, or of the use or development of property immediately adjacent to it, the strict application of the terms of this ordinance would unreasonably restrict the use of the property;
- b. That the strict application of the ordinance would produce undue hardship;
- c. That the hardship is not generally shared by other properties in the same zoning district and the same vicinity;
- d. That the board is satisfied, upon the evidence heard by it, the granting of such variance will alleviate a significant demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant;
- e. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;
- f. That the condition or situation of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- g. That the variance shall be in harmony with the intended spirit and purpose of this ordinance;
- h. That financial concerns only shall not be considered as a basis for granting a variance; and
- i. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

### **Sec. 17.5. Specific conditions for variances in floodplain district.**

In passing upon applications for a variance, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of this zoning ordinance and the following factors:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the floodway district that will cause any increase in flood levels during the 100-year flood.
- b. There is no significant danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The variance will not adversely affect the existing and proposed water supply and sanitation system and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- d. The variance will not increase the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on immediate and adjacent owners.
- g. There is no availability of alternative locations not subject to flooding for the proposed use.
- h. The variance is compatible with the proposed use, with existing development and development anticipated in the foreseeable future.
- i. The variance bears a reasonable relationship to the proposed use to the comprehensive plan and floodplain management program for the area.

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- j. The variance will not adversely affect the safety of access to the property in time of flood of ordinary and emergency vehicles.
- k. The variance will not adversely affect the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- l. Such other factors which are relevant to the purposes of this ordinance in general or this article in particular.

17.5-1. The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

17.5-2. Variances shall only be issued after the board of zoning appeals has determined that the granting of such will not result in:

- (a) Unacceptable or prohibited increases in flood heights;
- (b) Additional threats to public safety;
- (c) Extraordinary public expense;
- (d) Creation of nuisances;
- (e) Cause fraud or victimization of the public; or
- (f) Conflict with local laws or ordinances.

17.5-3. In deciding to grant a variance, the board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of the variance to construct a structure below the 100-year flood elevation:

- (a) Increases risks to life and property; and
- (b) Will result in increased premium rates for flood insurance.

17.5-4. A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained and any variances which are issued shall be noted in the annual report submitted to the Federal Insurance Administrator.

### **Sec. 17.6. Nonconforming does not constitute grounds for granting a variance.**

No permitted or nonconforming use of neighboring lands, structures or buildings in the same district, or in other districts, shall be considered grounds for the issuance of a variance.

### **Sec. 17.7. Prohibition of use variances.**

Under no circumstances shall the board of zoning appeals grant a variance to allow a use not permitted under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

### **Sec. 17.8. Conditions and restrictions by the board.**

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The board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in article 18 to reduce or minimize the injurious effect of such variance upon surrounding property and to better carry out the general intent of this ordinance. The board may establish expiration dates as a condition or as a part of the variance. The board may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

**Sec. 17.9. Variance appeals.**

Any person including any agency of the town government aggrieved by a decision of the board on a variance may appeal any decision of the board to the circuit court of the county as provided for in Code of Virginia, § 15.2-2314.

**Sec. 17.10. Appeal procedure.**

<p>_____                  APPLICANT                  _____</p>	Applicant or aggrieved files a notice of appeal with the zoning administrator.
Notice of Appeal	
<p>_____                  ZONING                  ADMINISTRATOR                  _____</p>	Zoning administrator refers case to board of zoning appeals.
Case	
<p>_____                  BOARD OF ZONING                  APPEALS                  _____</p>	Board of zoning appeals publishes notice of public hearing, holds a public hearing and decides the case.
Verdict	
<p>_____                  ZONING                  ADMINISTRATOR                  _____</p>	Zoning administrator takes action appropriate to the outcome of the case (see section 4.7 or 5.4).

**ARTICLE 18. BOARD OF ZONING APPEALS\***

**Sec. 18.1. Creation, membership and appointment of the board.**

The board of zoning appeals is hereby established which may be referred to in this ordinance as the "board" or "board of zoning appeals." The board shall have jurisdiction within the corporate limits of the Town of Damascus, and it shall consist of five residents of the town, appointed by the circuit court of the county, and who may be nominated by the Damascus Town Council. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the town except that one may be a member of the planning commission.

**Sec. 18.2. Terms of office of board members; vacancies; removals.**

The members of the board shall serve for a five-year term, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least 30 days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. A member whose term expires shall continue to serve until his successor is appointed and qualified. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held after at least 15 days' notice.

**Sec. 18.3. Staff of board and compensation of board members.**

Within the limits of funds apportioned by the town council, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the town council.

**Sec. 18.4. Powers of the board.**

The board is hereby vested with the powers to:

- a. Hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in carrying out the administration or enforcement of the ordinance;
- b. Hear and act upon application for variances in accordance with this article to alleviate hardships by virtue of the inability of the land owner to comply strictly with the provisions of this ordinance by reason of unique shape, topography or physical features of the lot;
- c. Hear and decide appeals from the decision of the zoning administrator;
- d. Hear and decide applications for interpretation of the district map where there is any certainty as to the location of a district boundary;
- e. Hear and decide applications for conditional use permits and special exceptions in the manner and subject to the standard set out in article 17;
- f. Hear and decide all other matters referred to it on which it is required to act under this ordinance;
- g. Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.

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\* **Cross reference**— Boards, committees and commissions, § 2-241 et seq.

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### **Sec. 18.5. Election of officers.**

The board shall elect for its members its own chairman, vice-chairman and secretary who shall service for one year and may upon election serve succeeding terms.

### **Sec. 18.6. Stay of proceedings.**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent threat to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record on application and on notice to the zoning administrator and for good cause shown.

### **Sec. 18.7. Rules and proceedings of the board.**

The board shall also adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- a. The presence of a majority of all members of the board shall constitute a quorum.
- b. No action shall be taken by the board on any case until after a public hearing and notice thereof. Notice of such hearing shall be published once a week for two successive weeks in a local newspaper of general circulation, not less than six days nor more than 21 days after the second advertisement appears. A written notice of the hearing of the appeal shall be sent by mail to the applicant and all directly affected property owners at least ten days before the hearing of the appeal. The notice to the appellant shall be sent by registered mail.
- c. Appeals to the board shall be taken within 30 days after the decision appealed from by filing with the zoning administrator shall then transmit to the board all the papers constituting the record upon which the action was taken.
- d. The board shall fix a reasonable time for hearing the application or appeal, give public notice thereof as well as notify interested parties and decide the same within 60 days.
- e. The board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to affect any variance from the ordinance.
- f. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board or, in his absence, the vice-chairman may administer oaths and compel.
- g. The board may call upon another officer or agency of the Town of Damascus for information in the performance of its duties, and it shall be the duty of such other agencies to render the information to the board as may be reasonably required.
- h. Any office, agency or department of the Town of Damascus or other aggrieved party may appeal any decision of the board to the circuit court of the county as provided for in Code of Virginia, § 15.2-2314.
- i. In decisions on variance or conditional use, the board shall indicate the specific section of this ordinance under which the variance or conditional use is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare."

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The board shall state clearly the specific conditions imposed in granting the variance ordinance or conditional use permit. For variance cases pertaining to hardship, the board shall specifically identify the hardship warranting such action by the board.

- j. At the public hearing of the case before the board, the appellant shall appear in his own behalf or be represented by counsel or agent. If represented by legal counsel, the appellant shall notify the board no less than 30 days prior to the established meeting date. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.
- k. The Damascus Planning Commission shall be permitted to submit an advisory opinion on any matter before the board, and such opinion shall be made part of the record of the public hearing.

**Sec. 18.8. Procedure for permitted Conditional Uses, Variances, Special Exemptions, and questions of map interpretations.**

<p>_____                  APPLICANT                  _____</p>	<p>Applicant submits application and plans to zoning administrator.</p>
<p>Application</p>	
<p>_____                  ZONING                  ADMINISTRATOR                  _____</p>	<p>Zoning administrator refers applicant's case to board of zoning appeals.</p>
<p>Case</p>	
<p>_____                  BOARD OF ZONING                  APPEALS                  _____</p>	<p>Board of zoning appeals publishes notice of public hearing, holds a public hearing, and decides the applicant's case.</p>
<p>Case</p>	
<p>_____                  ZONING                  ADMINISTRATOR                  _____</p>	<p>Zoning administrator takes appropriate action (see sections 4.7 and 5.4).</p>

**ARTICLE 19. PROCEDURE FOR AMENDMENT**

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### **Sec. 19.1. Authority to amend.**

The town council may, from time to time, by ordinance amend, supplement or change the regulations, district boundaries or classifications of property. Amendments may be initiated whenever the public necessity, convenience, general welfare or good zoning practice requires it.

### **Sec. 19.2. Initiation of amendment.**

Amendments may be initiated by resolution of the town council, or by motion of the Damascus Planning Commission or by petition of any property owner addressed to the governing body.

### **Sec. 19.3. Application for amendment; fee.**

An application by an individual for an amendment shall be accompanied by a fee payable to the Town of Damascus and shall also be accompanied by maps, drawings and data necessary to demonstrate that the proposed amendment is in conformance with the comprehensive plan of Damascus and that public necessity, convenience and general welfare require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with the application.

### **Sec. 19.4. Review and recommendation by the planning commission.**

The planning commission shall review and make recommendations to the town council on all proposed amendments to this ordinance.

### **Sec. 19.5. Grounds for amendment.**

The planning commission, in its review and recommendation, and the town council, in its deliberations, shall make specific findings with regard to the following grounds for an amendment and shall note the findings in the official record as follows:

- a. The amendment is in agreement with the Damascus Comprehensive Plan;
- b. It has been determined that the legal purposes for which zoning exists are not contravened;
- c. It has been determined that there will not be an adverse effect upon adjoining property owners unless such adverse effect can be justified by the overwhelming public welfare;
- d. It has been determined that no property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

### **Sec. 19.6. Public hearing and notice of hearing.**

One joint public hearing or two individual hearings of the planning commission and the town council shall be held on all proposed amendments to this ordinance. Notice of such hearing or hearings shall be published once a week for two successive weeks in a local newspaper of general circulation, not less than six days nor more than 21 days after the second advertisement appears. At least ten days prior to the public hearing, all affected property owners and all adjoining property owners, including those separated by a public way, including those parcels which lie in other localities of the Commonwealth, shall be notified by

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certified mail of the proposed amendment, and the time, date and place of the public hearing. Washington County shall also be notified as an adjoining jurisdiction.

In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment, and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.

**Sec. 19.7. Amendments affecting zoning map.**

Upon enactment of an amendment to the zoning map which is part of this ordinance, the zoning administrator shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

**Sec. 19.8. Effect of denial of application.**

Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for that amendment shall not be eligible for reconsideration for one year following such denial, except in the following cases:

- a. Upon initiation by the planning commission or town council;
- b. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
- c. When the previous application was denied for the reason that the proposed zoning would not conform to the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

**Sec. 19.9. Amendment procedure.**

Amendment	Amendment is initiated by local petition or resolution of town council or planning commission and is submitted to town council.
_____ TOWN COUNCIL _____	Town council refers proposed amendment to planning commission.
Amendment	
_____ PLANNING COMMISSION _____	Planning commission submits recommendation to town council.
Recommendation	

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TOWN COUNCIL	Town council notifies all affected property owners and publishes notice of joint public hearing of town council and planning commission.
Approval	Joint public hearing after which town council decides on proposed amendment.

**ARTICLE 20. DEFINITIONS**

**Sec. 20.1. General provisions.**

The following definitions shall apply for the interpretation of this ordinance. The dictionary definition will apply to all words not defined in this article.

**Sec. 20.2. Appurtenant or accessory.**

An activity or structure that is customarily associated with and is appropriately incidental and subordinate to a principal activity and/or structure and located on the same lot, except as provided for under the provisions of accessory off-street parking. This definition does not include “modular home” or “tiny house”.

When in a special flood hazard area, this term shall be additionally defined as a non-residential structure which does not exceed 600 square feet.

**Sec. 20.3. Alley.**

A public way intended to provide only secondary vehicular access to abutting properties.

**Sec. 20.4. Automotive service.**

Establishments with the primary purpose of cleaning, servicing, or repairing motor vehicles.

**Sec. 20.5. Base flood elevation.**

The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community’s Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

**Sec. 20.6. Basement.**

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Any area of a building having its floor sub-grade (below ground level) on all sides.

### **Sec. 20.7. Building.**

A structure, either temporary or permanent, having a roof or other covering and enclosed on all four sides, and designed or used for the shelter or enclosure of any person, animal or property of any kind, excluding tents, recreational vehicles situated on private property and used for purposes of a building, and portable dog houses.

### **Sec. 20.8. Building height.**

The vertical distance from the highest point on a building or other structure, excepting any chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

### **Sec. 20.9. Bulk.**

Describes the size of buildings or other structures, and their relationship to each other, to open areas and to lot lines, therefore including:

- a. The size (including height and floor area) of buildings or other structures;
- b. The area of the lot upon which a residential building is located, and the number of dwelling units within each building in relation to the area of the lot;
- c. The location of exterior walls of buildings or structural beams of other structures in relation to lot lines, to other walls of the same building, or to other structures; and
- d. All open areas relating to buildings or other structures and their relationship thereto.

### **Sec. 20.10. Clinic.**

An establishment where persons are given medical, dental, or surgical treatment by one but not more than four physicians or dentists with no patients lodged overnight. (See section 20.38 for kennels.)

### **Sec. 20.11. Community education.**

Structure or location where knowledge is taught.

### **Sec. 20.12. Completely enclosed.**

Refers to a building or other structure having a roof, and separated on all sides from the adjacent open area or from other buildings or other structures, by exterior walls or party walls.

### **Sec. 20.13. Conditional use.**

A conditional use is a use that would not be appropriate generally or without restriction throughout the district but which, if controlled as to number, area, location or relation to the neighborhood, would not be

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detrimental to the public health, safety, or general welfare. Such uses may be permitted in a district as conditional uses, if specific provisions for such use is made in this ordinance.

### **Sec. 20.14. - Construction sales and service.**

Any establishment involved in the sale of materials for construction.

### **Sec. 20.15. Convenience sales and services.**

Any neighborhood retail establishment which caters to the everyday needs of the adjoining residential areas such as small "country" stores offering a variety of goods or services not to exceed 2,500 square feet in floor area.

### **Sec. 20.16. Curb level.**

The mean of the elevations of the side lot lines extended to the street line.

### **Sec. 20.17. Development.**

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, temporary structures, the placement of mobile homes, paving, utilities, filling, grading, excavation, mining, dredging, drilling, or other land-disturbing activities or permanent or temporary storage of equipment or materials.

### **Sec. 20.18. Dwelling, mobile home.**

See "Mobile home."

### **Sec. 20.19. Dwelling, modular home.**

See "Modular home."

### **Sec. 20.20. Dwelling, multifamily.**

A building containing three or more dwelling units. The term includes cooperative apartments, condominiums and the like. For purposes of these regulations, regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental partly on a monthly basis and partly for a shorter time period, but with less than 30 percent of the living units under the same ownership or management on the same lot being occupied on a less-than-monthly basis, shall be considered as a semi-transient residential activity.

### **Sec. 20.21. Dwelling, single-family detached.**

A single-family dwelling entirely separated from structures on adjacent lots.

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### **Sec. 20.22. - Dwelling, two-family.**

A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

### **Sec. 20.23. Dwelling unit.**

A room or rooms connected together, constituting a separate independent housekeeping establishment for one family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

### **Sec. 20.24. Family.**

An individual or a group of persons related by blood, marriage, adoption, or in a domestic partnership, living together as a single housekeeping unit.

### **Sec. 20.25. Financial institution.**

Banks, credit unions, and other savings and loan institutions.

### **Sec. 20.26. Flood or flooding.**

A temporary or general condition of partial or complete inundation of normally dry land areas.

### **Sec. 20.27. Flood, 100-Year.**

A flood that, on the average, is likely to be equaled or exceeded once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year). Also described as the “Base Flood”.

### **Sec. 20.28. Floodplain.**

- (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation.
- (2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

(As defined by the Damascus Flood Study Map.)

### **Sec. 20.29. Floodway.**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

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### **Sec. 20.30. Floor area.**

The total of the gross areas of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, but excluding the following:

- a. Areas used for off-street parking spaces or loading berths, driveways and maneuvering aisles relating thereto required in this ordinance.
- b. In the case of nonresidential facilities: arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used for sales, display, storage, service or production areas.

### **Sec. 20.31. Freeboard.**

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

### **Sec. 20.32. General personal service.**

Any establishment not involved in the transaction of goods which caters to the needs of individuals (not including massage parlors).

### **Sec. 20.33. Home occupation.**

An occupation conducted in a dwelling unit, or accessory building, provided that:

- a. Only one person other than members of the family residing on the premises shall be engaged in such occupation;
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area, nonilluminated, and mounted flat against the wall of the principal building;
- d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
- e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.

### **Sec. 20.34. Hospital.**

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An institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, and homes for the aged.

### **Sec. 20.35. Incidental alterations.**

Changes or replacements in the nonstructural parts of a building or other structure without limitations to the following examples:

1. Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;
2. A minor addition to the exterior of a residential building, such as an open porch;
3. Alterations of interior non-loadbearing partitions in all other types of buildings or other structures; or
4. Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits.

### **Sec. 20.36. Junkyard.**

The use of any area of land lying within 100 feet of a state highway or the use of more than 200 square feet of land area in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or two or more motor vehicles of any kind which are incapable of being legally operated.

### **Sec. 20.37. Kennel.**

A place prepared to house, board, breed, handle, or otherwise keep or care for animals for sale or in return for compensation.

### **Sec. 20.38. Landscaping.**

The planting and maintenance of trees, shrubs, lawns and other ground cover or materials, provided that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects and similar accessory features may be included as landscaping if integrally designed, and permitted as required.

### **Sec. 20.39. Library.**

A building primarily used to store, and allow access to books, films, maps, recorded music, computers and other educational material.

### **Sec. 20.40. Lot.**

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other spaces as required by this ordinance. A lot shall have frontage on an approved public street and shall either be shown on a plat of record or be considered as a unit of property described by metes and bounds.

### **Sec. 20.41. Lot area.**

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The entire area of a lot as defined within this ordinance.

### **Sec. 20.42. Lot coverage.**

That portion of a lot which, when viewed directly from above, would be covered by a building or any part of a structure.

### **Sec. 20.43. Lot frontage.**

The front of a lot shall be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated in this ordinance.

### **Sec. 20.44. Lot line.**

A line marking the boundary of a lot.

### **Sec. 20.45. Lot measures.**

- a. *Lot depth* shall be the average horizontal distance between the front and rear lot lines.
- b. *Lot width* shall be the average horizontal distance between side lot lines.

### **Sec. 20.46. Lot of record.**

A lot which is part of a subdivision recorded in the clerk's office of the circuit court, or a lot whose existence, location and dimensions have been legally recorded or registered in a deed prior to the enactment of this ordinance.

### **Sec. 20.47. Lot types.**

The diagram (figure 1) which follows illustrates terminology used in this ordinance with reference to corner lots, interior lots, through lots and reversed frontage lots:

In this diagram:

A = *Corner lot*, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees. See lots marked A (1) in the diagram.

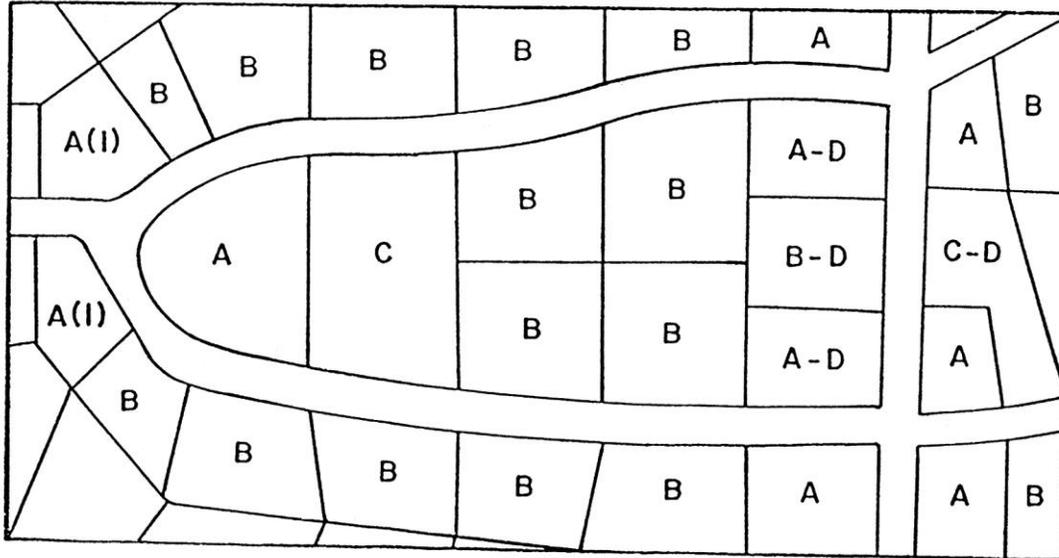
B = *Interior lot*, defined as a lot other than a corner lot with only one frontage on a street.

C = *Through lot*, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double-frontage lots.

D = *Reversed frontage lot*, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed

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frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).



**Reversed Frontage Lot**

**Sec. 20.48. Manufactured home.**

A structure built *after* June 15, 1976 subject to HUD Title 6 federal regulation, transportable in one or more sections, which is built on a permanent chassis and is 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 contained in the structure.

For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, mobile homes and other similar vehicles placed on a site for greater than 180 consecutive days.

**Sec. 20.49. Manufactured home lot.**

A site for the placement of a manufactured home. A manufactured home lot may be formally subdivided into a discrete taxable parcel of land for a permanent structure.

**Sec. 20.50. Manufacturing.**

The action of or an establishment engaged in the transformation of substances into new products.

**Sec. 20.51. Mobile home.**

A structure built *prior to* June 15, 1976 not subject to HUD Title 6 federal regulation, transportable in one or more sections, which is built on a permanent chassis and is 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 contained within the structure.

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### **Sec. 20.52. Mobile home park.**

An area where two or more mobile homes or trailers can be and are intended to be parked, designed or intended to be used as temporary or permanent living facilities for two or more families.

### **Sec. 20.53. Mobile home space.**

A plot of ground within a mobile home park, designed to accommodate one mobile home, and which has water, sewer and electricity available at the space.

### **Sec. 20.54. Mobile home stand.**

That part of an individual mobile home space which has been reserved for the placement of the mobile home.

### **Sec. 20.55. Modular home.**

A single-family dwelling unit that is constructed to state-wide building code, on or off a frame, basically as a conventionally built wood frame house except it is built at a factory and is transported to the site on which it will be permanently located. Typical characteristics include:

- Often delivered in two or more pieces
- Typically built on crawlspaces or basements
- Usually look like traditional stick-built homes in both size and features

Panelized homes would also fall into this category. This term may also include the term “Tiny house” (See section 20.80 for tiny house).

### **Sec. 20.56. Motel, hotel, hostel and lodge.**

Shall mean the same as "Transient lodging".

### **Sec. 20.57. Nonconforming.**

- a. Any lawful building or other structure which does not comply with any one or more of the applicable bulk regulations; or
- b. Any lawful use which does not comply with any part or any one or more of the applicable regulations pertaining to:
  1. Principal permitted, conditional or accessory uses permitted in the district in which use is located;
  2. Sign regulations; or
  3. Accessory off-street parking and loading requirements;

either on the effective date of this ordinance or as a result of any subsequent amendment.

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### **Sec. 20.58. Place of worship.**

Structure or location where services or rites are held showing reverence for a deity.

### **Sec. 20.59. Principal activity.**

An activity which fulfills a primary function of an establishment, institution, household or other entity.

### **Sec. 20.60. Principal building.**

A building which contains the principal activity or use.

### **Sec. 20.61. Private recreation facility.**

Swimming pools, tennis courts, and other outdoor recreation facilities for use primarily by the lot owner.

### **Sec. 20.62. Profession (professional office).**

The term "profession," as used in this ordinance, is limited in its application to physicians and surgeons, lawyers, members of the clergy, architects, engineers, or other persons holding advanced degrees from institutions of higher learning in the field which they practice. The term is not intended to include insurance agents, insurance adjusters, realtors, photo studios, beauty parlors, barbershops, dance schools, business schools or any persons engaged in sales or trade. In permitting professional office as home occupations, and only as accessory uses in certain districts, it is intended that such offices shall be subject to limitations placed on home occupations but that only offices occupied by persons engaged in professions, as herein defined, shall be permitted.

### **Sec. 20.63. Recreational equipment, major.**

For purposes of this ordinance, major recreational equipment includes boats and boat trailers, travel trailers, tent trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings such as recreational vehicles commonly called RVs, and the like. Recreational equipment may also be identified as a vehicle which is:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or towable; and,
- d) Designed primarily not for use as a permanent dwelling but as temporary living quarters.

This term may also include the term "Tiny house" (See section 20.77 for tiny house).

### **Sec. 20.64. Restaurant.**

An establishment where food is ordered, prepared and served for pay.

### **Sec. 20.65. Residence.**

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A building or part of a building containing one or more dwelling units or rooming units, including single-family or multifamily houses, multiple dwellings, boarding or rooming houses, or apartment hotels.

### **Sec. 20.66. Retail stores and shops.**

Buildings for display and retail sale of merchandise or for the rendering of personal services (but specifically exclusive of coal, wood and lumberyards), such as the following examples: drugstores, newsstands, food stores, candy shops, dry goods and notions stores, antique stores and gift shops.

### **Sec. 20.67. Semi-transient residential establishment.**

An establishment where lodging is provided for compensation partly on a monthly or longer basis and partly for a shorter time period, but with less than 30 percent of the living units under the same ownership or management on the same lot being occupied on a less-than-monthly basis; but excluding institutional living arrangements involving the provision of specific kinds of forced residences, such as nursing homes, orphanages, asylums, and prisons.

### **Sec. 20.68. Setback line.**

A line running parallel to the street which establishes the minimum distance the principal building must be set back from the street line.

### **Sec. 20.69. Sign.**

Any writing (including letter, word, or numeral); pictorial presentation (including illustration, or decoration); emblem (including device, symbol, or trademark); flag (including banner or pennant); or any other figure of similar character, which:

- a. Is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure; and
- b. Is used to announce, direct attention, or advertise; and
- c. Is visible from outside a building.

### **Sec. 20.70. Sign, realty.**

A sign indicating pertinent information regarding real property for sale, lease or rent.

### **Sec. 20.71. - Sign, residential.**

An accessory sign which indicates the name and/or address of the occupant or a permitted home occupation.

### **Sec. 20.72. Story.**

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A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is not floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

- a. A basement or cellar if the finished floor level directly above it is not more than six feet above the average adjoining elevation of finished grade.
- b. An attic or similar space under a gable, hip or gambrel roof, the wall plates or any exterior walls are not more than two feet above the floor of such space.

### **Sec. 20.73. Street.**

A publicly maintained right-of-way which affords a primary means of access to abutting property. The word "street" shall include the words "road," "highway," "thoroughfare" and "alley."

### **Sec. 20.74. Street line.**

The property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the edge of the sidewalk farthest from the traveled street shall be considered as the street line.

### **Sec. 20.75. Structure.**

Anything constructed or erected, the use of which requires a location on the ground or attachment to something having a location on the ground. This includes but is not limited to buildings, towers, carports, signs, and smokestacks.

### **Sec. 20.76. Tent.**

A portable or collapsible shelter of fabric designed to serve as a temporary dwelling unit.

### **Sec. 20.77. Tiny house.**

A manufactured dwelling unit constructed subject to state-wide building code, built on a permanent chassis, which in the travelling mode or when erected on site is 400 or less square feet, and may be mobile while on wheels or situated upon a temporary or permanent foundation. The term "tiny house" may be defined under the following requirements:

- a) Recreational equipment, major – tiny house remains in travelling mode, while maintaining fully operational (road-ready) wheels and tires, quick-connect/disconnect utility connections, and unrestricted street access at all times; or
- b) Modular home – tiny house placed on a temporary or permanent foundation.

The term "tiny house" may also be referred to as a tiny home.

### **Sec. 20.78. Transient lodgings.**

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A building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge. Such lodgings must have a Certificate of Occupancy issued by the office of the building inspector.

### **Sec. 20.79. Travel trailer.**

A travel trailer, pickup camper, converted bus, tent trailer, recreational vehicle commonly called an RV, or similar device used for temporary portable housing or a unit which:

- a. Can operate independent of connections to external sewer, water, and electrical systems;
- b. Is identified by the manufacturer as a travel trailer and/or is designed as a travel trailer.

### **Sec. 20.80. Use.**

The purpose for which land or water or a structure thereon is designed, arranged, and intended to be occupied or utilized or for which it is occupied or maintained.

### **Sec. 20.81. Use and/or occupancy permit.**

A written permit issued by the zoning administrator or authorized building inspector, either of which is required before occupying or commencing to use any building or other structure or any lot.

### **Sec. 20.82. Use, public.**

Any use that is under control of a unit of general purpose government or governmental agency.

### **Sec. 20.83. Use, recreation.**

Any use of land or water and facilities provided for the enjoyment of the general public.

### **Sec. 20.84. Utility facilities.**

Any structure involved in the transport of electricity, water, natural gas, sewage or communication.

### **Sec. 20.85. Wholesale sales.**

Any establishment involved with the sale of merchandise to retail establishments.

### **Sec. 20.86. Yard.**

An open space on the same lot with a principal building, open, unoccupied and unobstructed by roofed structures from the ground to the sky except as otherwise provided in this ordinance. The measurement of a yard shall be construed as the minimum horizontal distance between the lot lines and any part of the building, such as roof overhang (see Article 9). Further defined as follows:

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- a) Yard, front – the yard area forward of an imaginary line parallel and extending left and right to the side lot lines from the front fascia of the principal building, excluding any porch or staircase. For determining yard requirements or restrictions, all sides of a lot adjacent to improved streets shall be considered front yard.
- b) Yard, rear – the yard area behind an imaginary line parallel to the rear fascia of the principal building and extending left and right to the side lot lines of any lot.
- c) Yard, side – the area between the front and rear fascia of the principal building on any lot, excluding the area consisting of the front and rear yard.