



Legislation Details (With Text)

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Type: Ordinance **Status:** Adopted

File created: 6/27/2023 **In control:** City Council

On agenda: 9/25/2023 **Final action:** 9/25/2023

Title: To amend and reordain City Code §§ 30-402.2, 30-411.3, 30-412.2, 30-413.3, 30-413.13, 30-414.2, 30-416.2, 30-418.2, 30-419.4, 30-420.2, and 30-426.2, all concerning permitted accessory uses and structures in certain zoning districts, and § 30-1040.3, concerning additional exceptions granted by the Board of Zoning Appeals; and to amend ch. 30, art. XII of the City Code by adding therein a new § 30-1220.31:1, concerning certain definitions.

Sponsors: Mayor Stoney

Indexes:

Code sections:

Attachments: 1. Ord. No. 2023-196, 2. Staff Report, 3. Public Comment

Date	Ver.	Action By	Action	Result
9/25/2023	1	City Council	adopted	Pass
9/18/2023	1	Planning Commission	recommended for approval	Pass
7/24/2023	1	City Council	continued and referred back	
7/17/2023	1	Planning Commission	recommended for continuance	Pass
6/26/2023	1	City Council	introduced and referred	

To amend and reordain City Code §§ 30-402.2, 30-411.3, 30-412.2, 30-413.3, 30-413.13, 30-414.2, 30-416.2, 30-418.2, 30-419.4, 30-420.2, and 30-426.2, all concerning permitted accessory uses and structures in certain zoning districts, and § 30-1040.3, concerning additional exceptions granted by the Board of Zoning Appeals; and to amend ch. 30, art. XII of the City Code by adding therein a new § 30-1220.31:1, concerning certain definitions.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 30-402.2, 30-411.3, 30-412.2, 30-413.3, 30-413.13, 30-414.2, 30-416.2, 30-418.2, 30-419.4, 30-420.2, 30-426.2, and 30-1040.3 of the Code of the City of Richmond (2020) be and are hereby **amended** and reordained as follows:

Sec. 30-402.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses, shall be permitted in the R-1 district (see Article VI, Division 9 of this

chapter):

- (1) Private garages, garden, tool and storage buildings, boathouses, piers and docks;
- (2) Home occupations;
- (3) Day nurseries when located within churches, or other places of worship, community centers or school buildings, provided:
 - a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;
 - b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;
 - c. No play equipment or structure shall be located within a front yard or a required side yard;
- (4) Parking areas;
- (5) Reserved;
- (6) Swimming pools, tennis courts and similar recreational facilities;
- (7) Temporary structures, trailers and storage of equipment and materials incidental to construction activities taking place on the premises, provided that such shall be removed upon completion or abandonment of construction. In the case of public improvements construction taking place within a public right-of-way, such construction related activities shall be permitted on property abutting the construction site when approved by the Director of Public Works and when operated and maintained in accordance with standards established by said Director;
- (8) Raising or keeping of domestic animals for noncommercial purposes on lots occupied by single-family dwellings, provided that all pens, runs, out-buildings and other facilities for the housing or

enclosure of such animals shall be located not less than 200 feet from all property lines. The restrictions set forth in this subsection shall not apply to the keeping of dogs, cats or other household pets or to the keeping of not more than six female chickens in residential districts. In addition, with regard to the keeping of not more than six female chickens:

a. No fenced area, pen or structure for the keeping of such chickens shall be located closer than 15 feet to any dwelling on an adjacent lot;

b. No fenced area or pen for the keeping of such chickens shall be located within any required front yard or street side yard; and

c. No structure for the keeping of such chickens shall be located within any required yard (see Chapter 4);

(9) Temporary housing of not more than 30 homeless individuals within churches or other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(10) Adult day care facilities when located within churches, other places of worship or community centers;

(11) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(12) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(13) One accessory dwelling unit located on the same lot as a single-family dwelling provided that:

a. The accessory dwelling unit cannot exceed one-third of the floor area of the main

single-family dwelling or 500 square feet, whichever is greater.

b. An accessory building with an accessory dwelling unit shall be subject to the requirements of Article VI, Division 9 of this chapter.

c. Access to an accessory building with an accessory dwelling unit shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

Sec. 30-411.3. Permitted accessory uses and structures.

~~[Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-5A Single- and Two-Family Residential District (see Article VI, Division 9 of this chapter):~~

~~(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-5A Single- and Two-Family Residential District.~~

~~(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family dwelling, provided that:~~

- ~~a. The single-family dwelling shall not contain any accessory lodging units;~~
- ~~b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;~~
- ~~c. The lot shall meet the lot area requirement for a two-family dwelling; and~~
- ~~d. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.~~

~~(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.]~~

Sec. 30-412.2. Permitted accessory uses and structures.

[Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-6 Single-Family Attached Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-6 Single-Family Attached Residential District.

~~(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family dwelling, provided that:~~

- ~~a. The single-family dwelling shall not contain any accessory lodging units;~~
- ~~b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;~~
- ~~c. The lot shall meet the lot area requirement for a two-family dwelling; and~~
- ~~d. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.~~

~~(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.]~~

Sec. 30-413.3. Permitted accessory uses and structures.

[Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-7 Single- and Two-Family Urban Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-7 Single and Two-Family Urban Residential District.

~~(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the~~

~~same lot as a single family dwelling, provided that:~~

- ~~a. The single family dwelling shall not contain any accessory lodging units;~~
- ~~b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;~~
- ~~c. The lot shall meet the lot area requirement for a two-family dwelling; and~~
- ~~d. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.~~

~~(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.]~~

Sec. 30-413.13. Permitted accessory uses and structures.

~~[Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-8 district (see Article VI, Division 9 of this chapter):~~

~~(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-8 Urban Residential District.~~

~~[(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single family dwelling, provided that:~~

- ~~a. The single family dwelling shall not contain any accessory lodging units.~~
- ~~b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code.~~
- ~~c. The lot shall meet the lot area requirement for a two-family dwelling.~~
- ~~d. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.~~

~~(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.]~~

Sec. 30-414.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-43 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

~~[(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.]~~

Sec. 30-416.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-48 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guests shall not exceed one for each 50 dwelling units within the development.

(3) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a ~~[single-family,]~~ two-family or multifamily dwelling, provided that[:

a. ~~The main building shall not contain any lodging units;~~

b. ~~There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;~~

c. ~~Lot area requirements shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;~~

d. ~~Usable open space requirements shall be applicable only where the main building is devoted to multifamily use. Required usable open space may be reduced to the extent necessary to provide required parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code; and~~

e. ~~Emergency]~~ emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(4) Short-term rental located within an accessory building permitted by subsection (3) of this section.

Sec. 30-418.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-53 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which

is located on the same lot as a [~~single-family,~~] two-family or multifamily dwelling, provided that[:

- a. ~~The main building shall not contain any lodging units;~~
- b. ~~There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;~~
- c. ~~Lot area requirements shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;~~
- d. ~~Usable open space requirements shall be applicable only where the main building is devoted to multifamily use. Required usable open space may be reduced to the extent necessary to provide required parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code; and~~
- e. ~~Emergency]~~ emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(4) Short-term rental located within an accessory building permitted by subsection (3) of this section.

Sec. 30-419.4. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses, shall be permitted in the R-63 Multifamily District (see Article VI, Division 9 of this chapter):

- (1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.
- (2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each

50 dwelling units within the development.

(3) [~~One dwelling unit located in an accessory building which is located on the same lot as a single-family dwelling, provided that:~~

- a. ~~The main building shall not contain any lodging units.~~
- b. ~~The lot area requirement applicable to a two-family detached dwelling shall be met.~~
- c. ~~Emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.~~
- d. ~~A plan of development shall be required as set forth in Article X of this chapter.~~

(4)] Parking areas located on lots occupied by permitted principal uses when such parking areas serve dwelling uses located elsewhere in the R-63 district, provided that:

- a. Off-premises parking areas and lots containing five or more spaces shall be improved as specified in Article VII, Division 2.1 of this chapter.
- b. When such parking areas are located on lots occupied by single-family or two-family dwellings, parking spaces shall be accessible directly from an abutting alley without provision of access aisles on the lot.

~~[(5)]~~ (4) Parking decks, provided that:

- a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this subsection prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened

from view from the street by structural material similar to the material of the building façade.

b. Except as provided in subsection (5)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity.

c. Not less than one exit lane and one entrance lane shall be provided, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way.

d. A plan of development shall be required as set forth in Article X of this chapter.

~~[(6)]~~ (5) Automated teller machines accessible only from the interior of buildings devoted to permitted principal uses listed in Section 30-419.3.

~~[(7) Short term rental located within an accessory building permitted by subsection (3) of this section.]~~

Sec. 30-420.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-73 multifamily residential district (see article VI, division 9, of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) Incidental uses located within multifamily dwellings, nursing homes and office buildings, designed and scaled for the convenience of the occupants thereof, and including shops for the sale of convenience goods, eating and drinking establishments, automated teller machines and personal service establishments, provided that:

a. There shall be no advertising signs, displays, show windows or automated teller

machines visible from the exterior of the building.

b. There shall be no direct public entrance to such uses from the exterior of the building.

c. The aggregate floor area devoted to such uses shall not exceed five percent of the total floor area of the building in which they are located.

(4) Restaurant facilities, automated teller machines and shops for the sale of gifts, flowers, drugs and similar items for the convenience of patients and visitors may be located within hospital buildings, provided that there shall be no signs, displays, show windows or automated teller machines visible from the exterior of the building nor shall there be any direct public entrance to such uses from the exterior of the building.

(5) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a ~~[single-family,]~~ two-family or multifamily dwelling, provided that[:

a. ~~The main building shall not contain any lodging units;~~

b. ~~There shall be no enlargement of the accessory building, except for ingress and egress improvements required by the Virginia Uniform Statewide Building Code;~~

c. ~~Lot area, floor area and usable open space requirements, where applicable, shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;~~

d. ~~Required usable open space may be reduced to the extent necessary to provide parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code; and~~

e. ~~Emergency]~~ emergency vehicle access to the accessory building shall be provided in accordance with requirements of the department of public works and department of fire and emergency services.

- (6) Emergency housing, subject to the provisions of Section 30-698.

Sec. 30-426.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the RO-2 residential-office district (see article VI, division 9, of this chapter):

- (1) Any accessory use or structure permitted in the R-1 district as set forth in section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) Restaurant facilities, automated teller machines and shops for the sale of gifts, flowers, drugs and similar items for the convenience of patients and visitors may be located within hospital buildings, provided that there shall be no signs, displays, show windows or automated teller machines visible from the exterior of the building, nor shall there be any direct public entrance to such uses from the exterior of the building.

(4) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a ~~[single-family,]~~ two-family or multifamily dwelling, provided that[~~:~~

- a. ~~The main building shall not contain any lodging units;~~
- b. ~~There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;~~
- c. ~~Lot area requirements shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;~~
- d. ~~Usable open space requirements shall be applicable only where the main building is devoted to multifamily use. Required usable open space may be reduced to the extent necessary to~~

~~provide parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code; and~~

e. ~~Emergency]~~ emergency vehicle access to the accessory building shall be provided in accordance with requirements of the department of public works and department of fire and emergency services.

(5) Emergency housing, subject to the provisions of Section 30-698.

Sec. 30-1040.3. Additional exceptions granted by the Board of Zoning Appeals.

Pursuant to Code of Virginia, § 15.2-2309, the following exceptions to the district regulations or other restrictions set out in this chapter may be granted by the Board of Zoning Appeals, provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas. In granting an exception, the Board shall be satisfied that it is consistent with the intent statement and the conditions as set forth in the particular exception, and the Board may attach such specific conditions and limitations as it deems necessary to satisfy the general conditions of this paragraph and the intent of the exception.

(1) *Construction of or additions to dwellings or accessory structures.* Construction of or additions to single-family detached, single-family attached, two-family or multifamily dwellings or accessory structures on lots occupied by such dwellings when such dwellings, additions or accessory structures cannot meet applicable yard and/or lot coverage requirements. Such dwellings, additions or accessory structures shall be permitted, provided the Board shall be satisfied that:

a. The intended purpose and use of the dwelling, addition or accessory structure is consistent with the use regulations applicable in the district in which the property is situated;

b. The departure from the applicable yard and/or lot coverage requirements is the minimum necessary to accommodate the intended purpose of the dwelling, addition or accessory structure, and that the dwelling, addition or accessory structure or a similar dwelling, addition or accessory structure serving the same purpose and function cannot reasonably be located elsewhere on the lot in compliance with applicable requirements; and

c. Any addition to an existing dwelling or construction of or addition to an accessory structure will be in keeping with the architectural character of the existing dwelling on the property, and any newly constructed dwelling or accessory structure will be in keeping with the development pattern of the neighborhood.

Intent statement. Many existing lots in the City are characterized by such small size, irregular configuration or other condition that current yard and/or lot coverage requirements severely inhibit their development for permitted dwelling use consistent with modern day dwelling needs. Also, a large number of dwellings in the City were constructed many years ago and do not meet contemporary needs of owners or occupants with regard to size, number, function or amenities of rooms and other living spaces. Many dwellings were constructed on relatively small lots and/or were constructed in a manner that current yard or lot coverage requirements do not enable additions to or construction of accessory structures for dwellings that are desired by owners or occupants to modernize or improve the functionality and livability of their properties. It is often desirable to permit construction of new dwellings, additions or accessory structures to encourage improvement of property, increase opportunities for home ownership, retain residents in the City and promote neighborhood improvement.

(2) *Lot division to create buildable lots.* Division of a lot which is undeveloped or a lot which is developed with single-family detached, single-family attached, two-family or multifamily dwellings, with or without accessory structures, when such lot or such lot and dwellings are existing on the effective date of the ordinance from which this subsection is derived, into two or more lots for purposes of single-family detached,

single-family attached, two-family or multifamily dwelling use, when the lots created by such division cannot meet applicable lot area, lot width, usable open space, lot coverage or side yard requirements. The division of such lot shall be permitted, provided that:

a. Such lot shall have previously consisted of legal lots of record that were subsequently combined by deed or other action, and the number of lots to be created shall not exceed the number of previously existing lots of record. The configuration of the lots to be created by the division need not be the same configuration as the previously existing lots of record.

b. The use of all lots created by the division shall be consistent with the use regulations applicable in the district in which the property is situated.

c. All new lots shall comply with Section 30-610.1 regarding public street frontage and access to lots.

d. Except where buildings are attached, each lot created by the division shall be provided with a side yard or and street side yard, where applicable, adjacent to each side lot line of not less than ten percent of the width of the lot, but in no case less than three feet, except in the case of an existing dwelling having an existing side yard of less width.

e. The division shall comply with the applicable requirements of Chapter 25 regarding the subdivision of land.

f. The Board shall be satisfied that the areas and widths of the lots created by the division are consistent with the predominant lot areas and lot widths in the immediate vicinity of the property, and that dwellings to be constructed on the lots will be compatible with dwellings existing or to be constructed in the immediate vicinity of the property.

Intent statement. In many older areas of the City, properties were originally subdivided into relatively small lots for purposes of single-family detached, single-family attached, two-family or multifamily development. In some cases, such lots were subsequently combined for purposes of creating an unusually large

building lot or to simplify deeds or other transactions, and were developed with a single-family, two-family or multifamily dwelling or left undeveloped. In most instances, such lots cannot be divided in compliance with current lot area, lot width, side yard, usable open space or lot coverage requirements, although such division would result in lots that are consistent with the predominant established lot sizes and development pattern in the immediate

vicinity of the property. It is often desirable to permit the division of these lots to increase opportunities for infill housing development that is compatible with the surrounding neighborhood.

(3) *Existing two-family dwelling use.* The use of a property containing a two-family dwelling existing on the effective date of the ordinance from which this provision is derived, located within a district which permits two-family dwellings, which does not comply with applicable lot area requirements, and for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued for two-family use, where such use has been continuous since the issuance thereof. The continued use of these properties as two-family dwellings shall be permitted, provided that:

a. The applicant can show that the property was acquired in good faith. The Board shall consider, among other factors, the extent to which the present and/or previous owners relied on previously issued permits or other actions by the City, or representations by sellers, agents, attorneys or others involved in the acquisition of the property;

b. A minimum lot area of 1,700 square feet shall be provided.

Intent statement. In many older areas of the City zoned to permit two-family dwellings, some existing single-family dwellings were converted to two-family dwellings in violation of applicable lot area requirements. In some instances, permits were issued by the City for these conversions. Other conversions occurred without the benefit of any permits, but subsequently building permits for additions or alterations, certificates of use and occupancy or certificates of zoning compliance may have been issued. The lots on which these two-family dwellings exist are often similar in size to other legally

existing two-family dwellings. The lot area and requirement contained in the conditions in this subsection are those which were in effect prior to June 1, 1960, in those areas of the City where many of these conversions took place.

(4) *Existing multifamily dwelling use.* The use of a property containing a multifamily dwelling existing on the effective date of this provision, located within a district which permits two-family or multifamily dwellings, which does not comply with the applicable lot area requirement, and for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued for the existing use, where such use has been continuous since the issuance thereof. The continued use of these properties as multifamily dwellings shall be permitted, provided that:

a. The subject property shall have been zoned to permit multifamily dwellings at the time such use was created, or was subsequently zoned to permit multifamily dwellings, and the applicable lot area requirement was not met;

b. The applicant can show that the property was acquired in good faith. The Board shall consider, among other factors, the extent to which the present and/or previous owners relied on previously issued permits or other actions by the City, or representations by sellers, agents, attorneys or others involved in the acquisition of the property;

c. A minimum of 850 square feet of lot area shall be provided for each dwelling unit;

d. The Board shall be satisfied that the design or configuration characteristics unique to the existing building would render it impractical or not economically viable for uses permitted by applicable provisions of this chapter. The Board may, in its discretion, in consideration of the design or configuration characteristics of the building and the character of the immediate surrounding neighborhood, grant a lesser number of dwelling units than requested.

Intent statement. In many older areas of the City, some existing single- and two-family dwellings were

converted to multifamily dwellings, or additional units were added to existing multifamily dwellings, in violation of the applicable lot area requirement. In some instances, permits were issued by the City for these conversions. Other conversions occurred without the benefit of any permits, but subsequently building permits for additions or alterations, certificates of use and occupancy or certificates of zoning compliance may have been issued. The lots on which these multifamily dwellings were developed are often similar in size to other legally existing multifamily dwellings. The lot area requirement contained in the conditions in this subsection are those which were in effect prior to June 1, 1960, in those areas of the City where many of these conversions took place.

(5) *Dwelling units in UB, B and RF districts.* The provisions in the use regulations of the UB, B and RF districts limiting the amount or location, or both, of floor area within the building that may be devoted to dwelling units or providing that certain portions of the ground floor of the building shall be devoted to other permitted principal uses, provided that:

a. The applicant has demonstrated to the satisfaction of the Board that, due to the existing or projected land uses of properties on the same block, there is no purpose to be served by providing for uninterrupted commercial frontage on the property, or that ground floor commercial space on the property is either not physically practical or not economically viable;

b. The applicant has demonstrated to the satisfaction of the Board that granting the exception will increase residential occupancy thereby facilitating a mixed use character of the district in which the property is located consistent with objectives for mixed use in the area;

c. The applicant has demonstrated to the satisfaction of the Board that any alterations to the building will not be architecturally incompatible with the dominant character of building façades on the block;

d. The Board may attach such conditions as it deems necessary to ensure that the building façade fenestration and the location and nature of pedestrian and vehicular ingress and egress are

compatible with the surrounding area.

Intent statement. There are areas within UB, B and RF districts in the City where the established or projected character of development suggests that uninterrupted commercial frontage is not the most desirable form of development and/or that a mixed use character of development with a large dwelling component would be more advantageous to the livability and economic viability of the area. Also, there are properties and existing buildings within such districts where it is not physically or economically viable to establish ground floor commercial space or to limit the amount or location of ground floor area devoted to dwelling units. In such instances, there is a need for flexibility in application of the restrictions on the use of ground floor space within a building, so long as new or renovated buildings are functionally and architecturally compatible with the surrounding area.

(6) *Accessory lodging units within a single-family dwelling.* Not more than two accessory lodging units within an owner-occupied single-family detached dwelling located in any district, provided that:

a. The applicant can show to the satisfaction of the Board that the dwelling unit is of such size and arrangement that the lodging units can reasonably be accommodated, and that incorporating such lodging units within the dwelling will not create potential adverse impacts on adjoining and surrounding properties;

b. When one lodging unit is located within a dwelling, not more than two persons shall occupy such lodging unit, and when two lodging units are located within in a dwelling, not more than one person shall occupy each lodging unit. At the request of the Zoning Administrator, the premises shall be made accessible to the Zoning Administrator by the owner of the property for purposes of verification of compliance with occupancy limitations;

c. There shall be no addition or exterior modification to the dwelling to accommodate the lodging units, and there shall be no signage or other evidence visible from the exterior of the dwelling to indicate that it contains lodging units;

Intent statement. Many single-family detached dwellings in the City are of such size or contain such numbers of rooms that the dwelling exceeds the needs of the owner-occupant family or results in an excessive physical or economic burden on the owner to provide adequate maintenance and upkeep. In some instances it is desirable to convert a room or group of rooms within such dwelling to one or two accessory lodging units with limited occupancy in order to enable more reasonable physical utilization or greater economic use of the dwelling and to enhance the potential for adequate maintenance and upkeep, continued owner-occupancy and avoidance of pressures for conversion to additional dwelling units or to nondwelling use, provided that the single-family character of the property is preserved and there are no adverse impacts on the surrounding neighborhood.

(7) [~~Dwelling unit in an accessory building in a single-family residential district. One dwelling unit located in an accessory building which is existing on the effective date of the ordinance from which this provision is derived and which is located on the same lot as an owner-occupied single-family dwelling within any R-1 through R-5 Single-Family Residential District, provided that:~~

a. ~~The Board is satisfied from evidence provided by the applicant that the accessory building was previously lawfully occupied by a dwelling unit for domestic employees; a dwelling unit existing prior to establishment of zoning in the City or a dwelling unit previously authorized by the Board;~~

b. ~~The Board is satisfied that the area of the lot, lot coverage and location of the accessory building on the lot are such that the dwelling unit will not result in overcrowding of the lot or any adverse impact on adjoining or surrounding property;~~

c. ~~The use of the main building shall be limited to a single-family dwelling and shall not include accessory lodging units;~~

d. ~~The use of the accessory building shall be limited to one dwelling unit in addition to permitted accessory uses;~~

e. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Uniform Statewide Building Code, and exterior modifications to the structure shall be in keeping with the architectural character of the existing dwelling on the property;

f. Access to the accessory building shall be provided in accordance with the requirements of the Department of Public Works and the Department of Fire and Emergency Services.

Intent statement. In many older areas of the City, some residential properties were developed with accessory buildings which were originally designed and used for carriage houses, dwellings for domestic employees or other dwelling purposes. With the exception of dwellings for domestic employees, dwelling units in accessory buildings in single-family districts have been prohibited since zoning was established in the City. In some cases, such dwelling units have been authorized by the Board. Some accessory buildings have previously been lawfully occupied by a dwelling unit and are located on lots large enough to accommodate such use. They are well suited for such use and are worthy of preservation, but some are in poor condition. Permitting a dwelling unit within them would encourage their renovation or continued maintenance and would be in the best interest of the neighborhood, provided that the additional dwelling unit would not result in overcrowding of the lot or any adverse impact on adjoining or surrounding property.

(8) *Dwelling unit in an accessory building in a district permitting two-family dwelling use.* One dwelling unit located in an accessory building, containing two or more stories, which is existing on the effective date of the ordinance from which this provision is derived and which is located on the same lot as a single-family dwelling within districts which permit two-family dwellings when the applicable lot area requirement for two-family dwelling use cannot be not met, provided that:

a. The use of the main building shall be limited to a single-family dwelling and shall not include accessory lodging units;

b. The use of the accessory building shall be limited to one dwelling unit in addition to permitted accessory uses;

~~c. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code, and exterior modifications to the structure shall be in keeping with the architectural character of the existing dwelling on the property;~~

~~d. Access to the accessory building shall be provided in accordance with the requirements of the Department of Public Works and the Department of Fire and Emergency Services.~~

Intent statement. In many older areas of the City zoned to permit two-family dwellings, some residential properties were developed with accessory buildings containing two or more stories which were originally designed for use as stables, carriage houses and/or domestic employees' quarters. With the exception of domestic employees' quarters, residential occupancy of accessory buildings has been prohibited since 1927. Many of these accessory buildings are currently being occupied and/or rented for non-employee residential use. In some instances, residential use has been approved by City Council or the Commission of Architectural Review. However, many of these accessory buildings have been occupied or were converted illegally. Most of these structures are worthy of preservation, but many are in poor condition. Permitting a dwelling unit within these accessory buildings would encourage their renovation and/or continued maintenance.

~~(9)] Home occupation use of an accessory building.~~ A home occupation as defined in Section 30-1220 and conducted within a completely enclosed accessory building, provided that:

a. Home occupation use of accessory buildings shall be limited to offices, including business, professional and administrative offices, and studios of writers, designers or artists engaged in the graphic arts.

b. All of the conditions set forth in Section 30-694.1 shall be met, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

c. The applicant demonstrates to the satisfaction of the Board that such home occupation will not result in any greater impacts on adjoining and surrounding properties than would result if the

home occupation were conducted within the dwelling unit.

Intent statement. It is the intent of this exception to enable limited home occupation use of an accessory building in a manner that will not result in adverse impacts on adjoining properties by providing review by the Board with consideration for the specific characteristics of the home occupation, the location and nature of the accessory building and its relation to adjoining and surrounding properties, and with the opportunity for the Board to impose such conditions and safeguards as necessary.

~~[(10)]~~ (8) *Height of fences and walls in side yards, rear yards and certain front yards.* Fences and walls not exceeding eight feet in height when located within a required side yard, rear yard, street side yard on a corner lot, required front yard along the longer street frontage of a corner lot or a required front yard adjacent to the rear of a main building located on a through lot. For purposes of this subsection, the height of a fence or wall shall be measured from the ground level at the base of the fence or wall, and shall include the height of posts, columns, gates and ornamentation. Fences and walls of such height shall be permitted, provided the Board shall be satisfied that:

a. The property on which the fence or wall is to be constructed is devoted to a conforming dwelling use.

b. The applicant has demonstrated that the proposed height of the fence or wall is reasonably necessary to provide security for the property and/or to provide a buffer from noise and activity on the adjacent street.

c. The design and construction materials of the fence or wall will be compatible with the main building and other structures located on the lot and with the general character of development in the immediate surrounding area.

d. The fence or wall will not unreasonably impair light and air to adjacent property, and will not impair necessary visibility for operators of motor vehicles at any intersection of the adjacent street with an alley, driveway or other street.

e. The fence or wall will be constructed in compliance with applicable requirements of the Virginia Uniform Statewide Building Code.

Intent statement. In many neighborhoods in the City, corner properties are situated at intersections where the street along the side of the property carries volumes of traffic or generates traffic noise that is disruptive to and not conducive to dwelling use of the property or to the use and enjoyment of the rear yard area of the lot. In addition, such corner properties are sometimes in need of enhanced security measures for the property in general and the rear yard area in particular. Also, many properties are situated adjacent to alleys or constitute through lots, resulting in similar traffic or security issues, or are situated relative to adjacent properties whereby adequate security or privacy cannot be afforded under normal fence and wall height limitations. It is often desirable in such situations to permit greater height of fences and walls than normally permitted by the zoning regulations in order to provide a more effective buffer from the street, alley or adjacent property or to provide greater security and privacy for the property as means to promote dwelling use and enjoyment of the property.

~~[(11)]~~ (9) *Nonconforming use: lot division to accommodate existing buildings.* Division of a lot developed with one or more nonconforming uses existing on the effective date of the ordinance from which this provision is derived into two or more lots. (For division of a lot to accommodate permitted single-family detached, single-family attached, two-family or multifamily dwellings, see Section 30-620.5.) The division of such lot shall be permitted, provided that:

a. The applicant can show to the satisfaction of the Board that the property was acquired or the current use was established in good faith, that the buildings cannot reasonably be devoted to conforming uses, and that such division will not increase potential adverse impacts of the nonconforming use on adjoining and surrounding properties;

b. All new lots shall comply with Section 30-610.1 of this chapter regarding public street frontage and access to lots;

c. The division shall result in at least one main building being located on each lot, and lot area, lot width, and yards and shall be allocated to the newly created lots on a basis reasonably proportional to the buildings and uses contained on each lot;

d. The division shall not result in the ability to create additional dwelling units or to accommodate other uses which would not have otherwise been permitted prior to the division;

e. The division shall comply with the applicable requirements of Chapter 25 regarding the subdivision of land.

Intent statement. In many older areas of the City, some properties were originally developed with more than one main building on a lot, or several separately developed lots under common ownership were combined for purposes of simplifying deeds or other transactions. In many instances, the uses on these properties are nonconforming under current use regulations, resulting in prohibition of the lots being divided. It is often desirable to permit division of these properties into separate lots in order to enhance their potential for reasonable economic use and to increase opportunities for individual ownership, including owner occupancy, or to facilitate financing, insurance or resale, particularly in cases where there is no practical difference in the intensity of uses of the properties as a result of the division.

~~[(12)]~~ (10) *Nonconforming use: enlargement, extension or alteration.* Enlargement, extension or structural alteration of a building or structure devoted to a nonconforming use; extension or expansion of a nonconforming use within a building or structure; or construction of an accessory building or structure to serve an existing nonconforming use; provided that:

a. The applicant can show to the satisfaction of the Board that such enlargement, extension, expansion, alteration or construction is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely and in a manner that does not adversely impact adjoining and surrounding properties;

b. In no case shall the amount of floor area devoted to the nonconforming use be increased

more than ten percent;

c. There shall be no increase in the number of dwelling units on the property, nor shall the granting of such exception result in noncompliance with any yard, open space, parking or other requirements of this chapter or any increase in the degree or extent of any nonconforming feature;

d. There shall be no increase in the area of any lot devoted to a nonconforming use, unless such increase is for purposes of enhancing screening, buffering, separation or other amenities or means of protection for adjoining and surrounding properties; and

e. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. Due to the large number and wide variety of nonconforming uses in the City, there is a need for flexibility and discretion in their treatment in order to recognize that in many cases continuation, improvement and modernization of a nonconforming use is in the best interest of the City and is necessary to enable reasonable use of a building that may have little or no other use potential. Modest expansion, enlargement, structural alteration or addition of accessory facilities, together with improvements to enhance the compatibility of a nonconforming use, is a preferable alternative to vacant, underutilized or poorly-maintained properties in cases where conversion to conforming uses is not practicable.

~~[(13)]~~ (11) *Nonconforming use: re-establishment or change in use.* Re-establishment of or change in a nonconforming use of a building or structure which has been discontinued for a period of two years or longer, provided that:

a. The property owner can show to the satisfaction of the Board that the property was acquired or the current use was established in good faith and that the building or structure cannot reasonably be devoted to a conforming use;

b. If a nonconforming use is changed to a more restricted use or a conforming use, the Board shall not authorize re-establishment of the nonconforming use or any change to a less restricted use;

c. If the building or structure is vacant or the nonconforming use has been changed to an illegal use, the Board may authorize re-establishment of the last nonconforming use or change to a use that meets all of the criteria set forth in Section 30-800.3(a); and

d. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. In some cases, nonconforming uses have been discontinued and buildings have remained vacant for a period of two years or longer where there was no intent to relinquish the nonconforming rights associated with the property. In other cases, nonconforming uses have been changed to uses in violation of applicable provisions of this chapter. In many of these instances, the buildings in question have little or no potential for conforming uses, and occupancy by the last nonconforming use, or a more restricted use or other limited use would result in reasonable economic use and improvement of the property and would be in the best interest of the neighborhood and the general public.

~~[(14)]~~ (12) *Nonconforming use: reduction in lot area.* Reduction in the area of a lot on which a nonconforming use is located, provided that:

a. The applicant can show to the satisfaction of the Board that such reduction will not increase potential adverse impacts of the nonconforming use;

b. There shall be no reduction in the area of any lot devoted to a nonconforming dwelling use, located in a single-family residential district. For purposes of this provision, the division of a lot shall not be construed to constitute reduction in the

area of the lot. In districts other than single-family residential districts, the area of a lot devoted to a

nonconforming dwelling use may be reduced to not less than the lot area required for the dwelling use in the R-48 or R-63 district;

c. The reduction shall not result in noncompliance with any lot area, lot width, yard, open space, lot coverage or other requirements of this chapter applicable in the district in which the property is located or any increase in the degree or extent of any nonconforming feature;

d. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. Reduction in the area of a lot on which a nonconforming use is located is generally prohibited by this chapter since in most cases it would increase the intensity of the use and its potential adverse impacts on adjoining and surrounding properties. However, some properties devoted to nonconforming uses are of such large size or are developed, arranged or used in such a manner that reduction in the area of the lot would reduce the extent or intensity of the use or result in equal or greater compatibility with neighboring uses. Reduction in lot area in such cases could result in less area devoted to outdoor activity, reduction in the number of buildings on a site or reduction in overall area of the nonconforming use. It may enable the area removed from the lot to be devoted to conforming use, landscaped buffer or other use beneficial to adjoining and surrounding properties.

~~[(15)]~~ (13) *Nonconforming use: addition of accessory off-street parking.* The addition of accessory off-street parking spaces to serve a nonconforming use, provided that:

a. The nonconforming use shall be located in a district other than an R district, unless the nonconforming use is a dwelling use as defined in Section 30-1220;

b. The accessory off-street parking spaces shall be located on the same lot as the nonconforming use, or on a contiguous lot;

c. The addition of accessory off-street parking spaces shall not result in the demolition of

any main building;

d. All applicable off-street parking improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter shall be met where feasible, as determined by the Board, provided that the Board may impose such conditions and further limitations as it may deem necessary in the public interest;

e. The applicant has shown to the satisfaction of the Board that such additional accessory off-street parking spaces will not result in any greater adverse impacts on adjoining and surrounding properties than would result without the additional parking.

Intent statement. The addition of off-street parking spaces to serve a nonconforming use is generally prohibited by this chapter, since it constitutes extension or expansion of the nonconforming use. However, there are instances in the City where nonconforming uses are likely to continue to exist and are generally not detrimental to adjacent and surrounding properties, but where such nonconforming uses are not provided with adequate off-street parking to meet the needs of the use or to avoid adverse impacts on the surrounding area. It is the intent of this exception provision to enable the addition of off-street parking spaces to serve such nonconforming uses in order to relieve potential on-street congestion and to provide adequate parking in a manner that will not result in adverse impacts on neighboring properties, by providing review by the Board with consideration for the specific characteristics of the use and its relation to adjoining and surrounding properties, and with the opportunity for the Board to impose such conditions and safeguards as necessary.

~~[(16)]~~ (14) *Building height.* The maximum permitted building height in any district except R-1 through R-8 districts, provided that:

a. The proposed use of the building shall be consistent with the use regulations applicable in the district in which the property is located;

b. The applicant has demonstrated to the satisfaction of the Board that the additional height

authorized by such exception will not unreasonably impair light and air to adjacent or nearby property and will not unreasonably impair prominent views of significant land, water or other features from public spaces or from adjacent or nearby property;

c. The Board shall be satisfied that the design, construction materials and overall mass of the building will be compatible with the general character of development in the immediate surrounding area.

Intent statement. In some cases, due to unusual conditions such as location, topography, other site conditions, lot orientation or the established or changing character of nearby development, the building height limit applicable in the district in which a property is located is not conducive to achieving the full development potential of the property consistent with the general intent of the district. Additional building height may also be appropriate where taller buildings are located nearby and to establish a transition from taller buildings to buildings of less height, or to enable the maximum permitted residential density or nonresidential intensity on a site while preserving open space at ground level where needed. In such cases, flexibility to enable additional building height is desirable as a means to adapt to unusual conditions, enhance the economic viability of the property and promote economic development for the benefit of the general public, so long as light and air, prominent views and the character of the surrounding area are adequately protected.

~~[(17)]~~ (15) *Freestanding signs.* The height and yard provisions applicable to permitted freestanding signs, other than billboard signs, provided that:

a. The applicant has demonstrated to the satisfaction of the Board that, due to topography or configuration of the site, elevation of the site relative to the elevation of the adjacent street, curvature of the adjacent street, structural improvements or vegetation on the site or on adjoining properties, or similar physical constraints, the height and/or yard requirements applicable to a permitted freestanding sign on the site would prohibit or unreasonably impair visibility of such sign from the adjacent street;

b. The applicant has demonstrated to the satisfaction of the Board that the proposed height

and location of the freestanding sign is the minimum departure from the regulations necessary to enable adequate identification of the use of the property, taking into consideration the nature of such use and character of the surrounding area, and is not for the purpose of affording a competitive advantage for the use of the property;

c. The applicant has demonstrated to the satisfaction of the Board that the proposed freestanding sign will not impair public safety, will not interfere with visibility of traffic on adjacent streets or driveways intersecting streets, and will not unreasonably impair visibility of traffic signs, directional signs or other permitted identification signs in the area;

d. The Board may attach such conditions and safeguards as it deems necessary to carry out the intent of this subsection, including, but not limited to, the size, location, configuration and illumination of the proposed freestanding sign and other signs on the property.

Intent statement. There are instances in the City where adequate identification of uses is not afforded by the height limitations or yard regulations, or both, applicable to permitted freestanding signs because of unusual physical characteristics of the property or the adjacent area. In such instances, there is a need for flexibility in application of the height or yard regulations, or both, for freestanding signs to enable adequate identification for the convenience of the public and to promote the economic viability of the uses such signs are intended to identify, so long as public safety is safeguarded, visibility of other permitted signs in the area is not impaired and the character of the freestanding sign is appropriate for the property and the surrounding area.

§ 2. That Chapter 30, Article XII of the Code of the City of Richmond (2020) be and is hereby amended and reordained by **adding therein a new section** numbered 30-1220.31:1 as follows:

Sec. 30-1220. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: .31:1 *Dwelling unit, accessory*, means a dwelling unit located on the same lot of record as another dwelling unit for purposes

incident and subordinate to the principal use of such lot. An accessory dwelling unit can be located in the main building or an accessory building.

§ 3. This ordinance shall be in force and effect upon adoption.