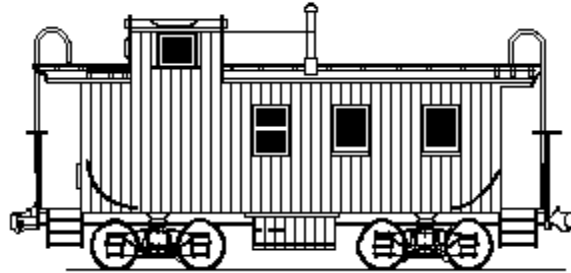


Minutes adopted by the Planning Commission on March 28, 2023 as presented.



CLIFTON TOWN PLANNING COMMISSION
TUESDAY, FEBRUARY 28, 2023, 7:30 PM
ACACIA LODGE
7135 MAIN STREET
CLIFTON, VA 20124

Present: Kathy Kalinowski, Chair; Town Council Representative Member Patrick Pline; Paula Sampson; Michelle Stein; Adam Trost; Terri Winkowski; Susan Yantis.
Staff: Amanda Christman, Zoning Clerk.

The Regular Meeting was called to order by Chair Kalinowski at 7:34 PM.

Order of Business:

1. Comprehensive Town Plan – Update.

a. Presentation by Sam Kinzer.

See attached materials.

A detailed presentation on the status of the Town Plan update, including next steps, was presented by Ms. Kinzer. The Clerk was directed to contact the Town’s committee Chairs in an effort to update the roster, as their input will be requested during the drafting process. Town Council Representative Member Pline indicated that he will work toward converting the PDF version of the current Town Plan into an editable format for the Commission’s use.

2. Zoning Ordinance:

a. Proposed Re-ordering of Chapter 9.

b. Proposed Addition of Civil Penalties Section.

See attached materials.

A brief presentation was given on the desire to reorder certain sections of Chapter 9 of the Town Code to attain a more logical progression and the option to adopt civil penalties as an enforcement mechanism for Zoning Ordinance violations was reintroduced.

3. Approve January 31, 2023 Meeting Minutes.

- **Member Sampson moved to approve the January 31, 2023 Meeting Minutes as presented, seconded by Chair Kalinowski. The motion was approved by poll, 7-0.**

4. Adjournment.

The Meeting was adjourned at 9:08 PM by general acclamation.

Planning Process - Town of Clifton Comprehensive Plan 23-24—Phase 2

DRAFT

Phase 2	Details	Input	Completion Goal
Process	<ul style="list-style-type: none"> • Present Phase 1 Assessment and Phase 2 Timetable to the Planning Commission • Approval to commence Phase 2 	PC	February 2023
	Set Dates with Planning Commission <ul style="list-style-type: none"> • 1. Facilitated Meeting with PC – <ul style="list-style-type: none"> ○ Ideas/Suggestions ○ Format discussion ○ Editing Process • 2. Tasking Committees – • 3. Update and Review • 4. Present Final Draft 		March 2023 April 2023 May 2023 August 2023 October 2023
	Structure Plan for Editing <ul style="list-style-type: none"> • Process for collection of content • Contracting with NVRC 	PC	May 2023
	Layout/Formatting Determine working document	PC	May 2023
	Close for input		August 2023
	Section drafts <ul style="list-style-type: none"> • submitted to relevant committees or PC for review 		August 2023
	Complete first draft of 2023 Town Comprehensive Plan	PC	October 2023

	Review Period		Nov – December 2023
	Town Council Approval		February 2024
Content Updates	Introduction - Review language regarding past updates and impetus for current work	PC	May 2023
	Goals, Objectives, Actions - Review plan structure, include language with describes process by which GOAs are determined	PC	May 2023
	Legal Basis - Keep Code references - review if any other relevant code should be included (see Code Compliance Assessment)	PC	May 2023
	Town History - Incorporate information about indigenous land history (Manahoac) and Black History	HPC	June 2023
	Clarify Historic Resources designations/districts Review National Register + Ffx Co Inventory of Historic Sites	HPC	June 2023
	Consider including ARB guidelines as Addendum Determine how the the Historic Overlay District impacts the manufactured housing code requirement	HPC/PC	June 2023
	Gov/Finances Section: Update all current committees Reference new revenue sources Determine if budget percentages are accurate	PC	June 2023
	Housing - Update to reflect age of housing	PC	June 2023
	Historic Resources GOA - Review, Evaluate Actions for completion, review Town Code amendments	HPC/PC	June 2023
	Town Govt and Finances GOA - Review and update	PC	June 2023
	Economy GOA - Review and update	CBC	June 2023

	Land Use - review Zoning Ordinance updates	PC	June 2023
	Land Use - GOA - Review actions for completion 3.1.7 - Agricultural Zoning - status?	PC	June 2023
	Transportation - Review for consistency with Streetscape Master Plan	PTC SPC	June 2023
	Town Parks - Include improvements made to lot to west of Town Park, improvements made to Popes Head Creek Trail; opportunities for better public space at Ayre Square	PTC TC	June 2023
	Public Buildings -Old Town Hall - update ownership and improvements, Clifton Town Meeting Hall - updated lease with County	PC	June 2023
	Public Schools - *recognizing it is considered unrealistic, this is still the place to state a Goal of seeing Clifton Elem reopened - can be referenced in future planning by Ffx Co or FCPS - use demographic data on school age children Consider other long range opportunities for use of the site.	PC	
	Public Services - Sanitary Sewer - Review for updated county policies, eligible properties	ConE	June 2023
	Emergency Preparedness - reference updated Ffx Co EOP	PC	June 2023
	Utilities - Water Supply - Reference conservation requirements in updated building codes, Reference updated Water Supply Plan - relevant ordinances for inclusion	ConE	July 2023
	Parks and Rec GOA - Update any plans or assessments completed, recognizing reoccurring costs, volunteer acknowledgement	TPC	July 2023
	Public Buildings GOA -Old Town Hall - Update to reflect current conditions	PC	
	Environment - Natural Features and Resources - Review, this section needs simplification - summarize and reference resources	ConE	July 2023
	Popes Head Creek Watershed - Reference recent physical improvements	ConE	July 2023

	Update Water Quality Data - VADEQ		
	Groundwater - update Ffx Co Health Dept quality testing data	ConE	July 2023
	Tree Cover - Reference numbered tree data along Popes Head Creek	ConE	July 2023
	Natural Resources GOA - Entire section needs review for updates, actions	ConE	July 2023
	Environmental Protection - Consider consolidating section with Natural Resources (overlapping GOAs) - Simplify section	ConE	July 2023
	Chesapeake Bay Preservation Act - Recognize any Phase III compliance requirements	ConE	July 2023
	Septic Systems and Wells - update for recent additions if any		
	Stormwater Management - update for any additional detention facilities	ConE	
	Community Appearance - Update to include recent improvements - No longer a Beautification Committee listed - who does this fall to?		
Figures Tables	Figure 1 - Town of Clifton Map (updated parcels)	PC - From NVRC	July 2023
	Figure 2 - Aerial	PC - From Ffx Co	July 2023
	Figure 3 - Clifton Historic District - use updated Inventory of Historic Sites (Ffx Co)	PC - NVRC/Ffx Co	July 2023
	Figure 4 - Zoning (data from BoZA)	PC - NVRC	July 2023
	Figure 5 - Future Land Use - review for accuracy	PC - NVRC	July 2023
	Table 1: AADT - VDOT data	PTC	July 2023

	Figure 6: Existing Pedestrian Walkways - Overlay a Public Parking layer on map	PC - NVRC	July 2023
	Figure 7 - Septic Map (title?)	PC - NVRC	July 2023
	*New Figure - Parks/Trails/Open Space Layers - Future access	TPC - NVRC	July 2023
	Table 3: Va Water Quality Standards - Review for updates/inclusion	PC -VADEQ	July 2023
	Figure 15: Flood Hazard Map - Make figure consistent with other figures	PC - NVRC	July 2023
Data Statistics Updates	Inventory of Historic Sites	HPC	May 2023
	# of Properties Zoned Commercial/Industrial	IDA/CBC	May 2023
	Population data - Fairfax County Population and Housing Survey	PC	May 2023
	Housing Data	PC	May 2023
	Vacant Land Data	PC	May 2023
	VDOT Daily Trips - AADT Data	PTC	May 2023
	Climate - Averages/Totals Record snowfall	ConE	May 2023
	Storage Tanks - see 2020 Census Data	ConE	May 2023
	Fuel Spills - request from VA DEQ	ConE	May 2023

Initial Evaluation – Jan 2023

Town of Clifton - Comprehensive Plan

Phase 1 Assessment

The Town of Clifton completed the most current Comprehensive Plan in May 2009, adopted by the Town Council in August 2009. In the 13 years that have passed the Town has seen significant change, yet by virtue of its small size and historic overlay district, it has also retained much of the same qualities and attributes detailed in the current plan. The primary objective of updating the comprehensive plan is to bring it into compliance with the State code. The secondary objective is to reflect on the existing plan and assess components that require updating, may be unnecessary, or perhaps are new priorities to the town. Lastly, the format of the existing plan should be assessed.

Each source for updated figures, tables and maps has been identified in the detailed process timeline. Consultant will initiate communications and requests with necessary sources, utilizing any existing relationships with Planning Commission members as appropriate.

The scope of work to complete this plan will be shaped by the priorities of the Planning Commission. The simplest and most timely approach would be to make all necessary data updates, code updates, remove any outdated language, and include any details on physical or ordinance changes that have taken place since 2009, and present proposed modifications to the Planning Commission. Alternately, if based on the feedback the Planning Commission chooses to significantly modify the format, or include substantial content additions, etc., this could considerably alter the scope of the project.

The Town may employ the following strategies to begin the process of updating the plan;
Identifying the extent to which they wish to alter the existing plan, formatting
Accessing a digital format of the 2009 Plan.

Utilizing the Planning Commission and existing committees to examine relevant sections of the plan for any noted changes, outdated data, and errors. Committees should reflect on the relevant sections to determine if all Goals, Objectives, and Actions are still applicable.

Holding Public Meetings as required to receive feedback from Town residents

Guidance by consultant(s) as to any contemporary items, topics or contents that could be of interest to include.

Town of Clifton

Comprehensive Plan - Code Compliance

The following codes are relevant to the update for the Town of Clifton Comprehensive Plan.

Code	Code Language	Compliance
15.2 -2223	The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.	In Compliance
15.2-2223.3	Comprehensive plan shall incorporate strategies to combat projected sea-level rise and recurrent flooding. “Where federal regulations as effective July 1, 2015 require a local hazard mitigation plan for participation in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program, such a plan may also be incorporated into the comprehensive plan. For a locality not participating in the FEMA Community Rating System, the comprehensive plan may include an action plan and time frame for such participation.”	Not in compliance, currently in communication with Ffx Co Dept of Planning and Development
15.2-2223.5	Comprehensive plan shall address manufactured housing.	Not in compliance, currently in communication with Ffx Co Dept of Planning and Development
	During an amendment of a locality's comprehensive plan after July 1, 2021, the locality shall incorporate into its comprehensive plan strategies to promote manufactured housing as a source of affordable housing. Such strategies may include (i) the preservation of existing manufactured housing communities, (ii) the creation of new manufactured home communities, and (iii) the creation of new manufactured home subdivisions.	How does the Historic District designation play into this requirement - in communication with Ffx Co Dept of Planning and Development
15.2-2224.	Surveys and studies to be made in preparation of plan; implementation of plan.	

Code	Code Language	Compliance
	A. In the preparation of a comprehensive plan, the local planning commission shall survey and study such matters as the following:	
	1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, groundwater and surface water availability, quality, and sustainability, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, dam break inundation zones and potential impacts to downstream properties to the extent that information concerning such information exists and is available to the local planning authority, the transmission of electricity, broadband infrastructure, road improvements, and any estimated cost thereof, transportation facilities, transportation improvements, and any cost thereof, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.	Existing Plan includes these components, each update identified in Assessment will bring into compliance.
	However, if a locality chooses not to survey and study historic areas, then the locality shall include historic areas in the comprehensive plan, if such areas are identified and surveyed by the Department of Historic Resources. Furthermore, if a locality chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.	Existing Plan includes these components, each update identified in Assessment will bring into compliance.
	2. Probable future economic and population growth of the territory and requirements therefor.	

Code	Code Language	Compliance
	<p>B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to: an official map, a capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, a mineral resource map, a recreation and sports map, and a map of dam break inundation zones</p>	<p>Existing Plan includes the methods of implementation and the maps, each figure update identified in Assessment will bring into compliance. Work with NVRC and Ffx Co to acquire/create maps.</p>
	<p><i>Process Related Code</i></p>	
<p>15.2-2225.</p>	<p>Notice and hearing on plan; recommendation by local planning commission to governing body; posting of plan on website.</p>	<p>All processes related to creating and adopting an updated plan will be coordinated with and agreed upon by the Town Clerk, the Planning commission and the Town Council as needed.</p>

Code	Code Language	Compliance
	<p>Prior to the recommendation of a comprehensive plan or any part thereof, the local planning commission shall (i) post the comprehensive plan or part thereof that is to be considered for recommendation on a website that is maintained by the commission or on any other website on which the commission generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof being considered for recommendation, (ii) give notice in accordance with § 15.2-2204, and (iii) hold a public hearing on the plan. After the public hearing, the commission may approve, amend and approve, or disapprove the plan. Upon approval, the commission shall by resolution recommend the plan, or part thereof, to the governing body and a copy shall be certified to the governing body. Any comprehensive plan or part thereof approved by the commission pursuant to this section shall be posted on a website that is maintained by the commission or on any other website on which the commission generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof approved by the commission and certified to the governing body. Inadvertent failure to post information on a website in accordance with this section shall not invalidate action taken by the local planning commission following notice and public hearing as required herein.</p>	
15.2-2226.	Adoption or disapproval of plan by governing body.	Process

Code	Code Language	Compliance
	<p>After certification of the plan or part thereof, the governing body shall post the comprehensive plan or part thereof certified by the local planning commission on a website that is maintained by the governing body or on any other website on which the governing body generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof being considered for adoption. After a public hearing with notice as required by § 15.2-2204, the governing body shall proceed to a consideration of the plan or part thereof and shall approve and adopt, amend and adopt, or disapprove the plan. In acting on the plan or part thereof, or any amendments to the plan, the governing body shall act within 90 days of the local planning commission's recommending resolution; however, if a comprehensive plan amendment is initiated by the locality for more than 25 parcels, the governing body shall act within 150 days of the local planning commission's recommending resolution. Any comprehensive plan or part thereof adopted by the governing body pursuant to this section shall be posted on a website that is maintained by the local governing body or on any other website on which the governing body generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof adopted by the local governing body. Inadvertent failure to post information on a website in accordance with this section shall not invalidate action taken by the governing body following notice and public hearing as required herein.</p>	<p>All processes related to creating and adopting an updated plan will be coordinated with and agreed upon by the Town Clerk, the Planning commission and the Town Council as needed.</p>
15.2-2228.	Adoption of parts of plan.	
	<p>As the work of preparing the comprehensive plan progresses, the local planning commission may, from time to time, recommend, and the governing body approve and adopt, parts thereof. Any such part shall cover one or more major sections or divisions of the locality or one or more functional matters.</p>	<p>All processes related to creating and adopting an updated plan will be coordinated with and agreed upon by the Town Clerk, the Planning commission and the Town Council as needed.</p>

Code	Code Language	Compliance
15.2-2229.	<p>After the adoption of a comprehensive plan, all amendments to it shall be recommended, and approved and adopted, respectively, as required by § 15.2-2204. If the governing body desires an amendment, it may prepare such amendment and refer it to the local planning commission for public hearing or direct the local planning commission to prepare an amendment and submit it to public hearing within 60 days or such longer timeframe as may be specified after written request by the governing body. In acting on any amendments to the plan, the governing body shall act within 90 days of the local planning commission's recommending resolution; however, if a comprehensive plan amendment is initiated by the locality for more than 25 parcels, the governing body shall act within 150 days of the local planning commission's recommending resolution. If the local planning commission fails to make a recommendation on the amendment within the aforesaid timeframe, the governing body may conduct a public hearing, which shall be advertised as required by § 15.2-2204.</p>	
15.2-2230.	<p>Plan to be reviewed at least once every five years.</p>	
	<p>At least once every five years the comprehensive plan shall be reviewed by the local planning commission to determine whether it is advisable to amend the plan.</p>	
15.2-2230.1.	<p>Public facilities study. In addition to reviewing the comprehensive plan, the planning commission may make a study of the public facilities, including existing facilities, which would be needed if the comprehensive plan is fully implemented. The study may include estimations of the annual prospective operating costs for such facilities and any revenues, including tax revenues, that may be generated by such facilities. For purposes of the study, public facilities may include but need not be limited to water and sewer lines and treatment plants, schools, public safety facilities, streets and highways.</p>	Not required
15.2-2233 - 15.2-2238	Code specific to maps - mostly related to maps generated	

Current Order	Proposed Order	Notes on Changes
ARTICLE 1 THE CONSTITUTION OF THE ORDINANCE	ARTICLE 1 THE CONSTITUTION OF THE ORDINANCE	No change in order
9-1 TITLE	9-1 TITLE	
9-2 PURPOSE AND INTENT	9-2 PURPOSE AND INTENT	
9-3 SEVERABILITY	9-3 SEVERABILITY	
9-4 CONFLICTING ORDINANCES	9-4 CONFLICTING ORDINANCES	
9-5 MINIMUM REQUIREMENTS	9-5 MINIMUM REQUIREMENTS	
9-6 EFFECTIVE DATE	9-6 EFFECTIVE DATE	
9-7 COPY ON FILE	9-7 COPY ON FILE	
ARTICLE 2 GENERAL REGULATIONS	ARTICLE 2 GENERAL REGULATIONS	
9-8 TERRITORIAL APPLICATION OF REGULATIONS	9-8 TERRITORIAL APPLICATION OF REGULATIONS	
9-9 GENERAL EFFECT	ARTICLE 3 ZONING DISTRICTS	Move Zoning Districts Article here; group them all together.
9-10 USE PERMIT REQUIRED	9-11 ZONING MAP	
9-11 ZONING MAP	9-12 ZONING DISTRICT BOUNDARIES	
9-12 ZONING DISTRICT BOUNDARIES	9-18 ZONING DISTRICTS ESTABLISHED	9-13 PARKING to 9-17 LIMITATIONS appear out of place, as it's inserted amidst the Zoning Districts. Move to ARTICLE 4 PERMITS, further along in chapter.
9-13 PARKING	9-19 RESIDENTIAL DISTRICT	
9-14 SIGNAGE	9-20 AGRICULTURAL DISTRICT	

Current Order	Proposed Order	Notes on Changes
<p>9-15 PROHIBITED USES</p> <p>9-16 NON-CONFORMING USES AND STRUCTURES</p> <p>9-17 LIMITATION ON THE OCCUPANCY OF A DWELLING UNIT</p> <p>ARTICLE 3 ZONING DISTRICTS</p> <p>9-18 ZONING DISTRICTS ESTABLISHED</p> <p>9-19 RESIDENTIAL DISTRICT</p> <p>9-20 AGRICULTURAL DISTRICT</p> <p>9-21 COMMERCIAL DISTRICT</p> <p>9-22 INDUSTRIAL DISTRICT</p> <p>9-23 HISTORIC OVERLAY DISTRICT</p> <p>9-23A COMMUNITY OPEN SPACE AND RECREATION (COSR) DISTRICT</p> <p>ARTICLE 4 ENFORCEMENT</p> <p>9-24 ENFORCEMENT</p> <p>9-25 VIOLATIONS AND PENALTIES</p> <p>ARTICLE 5 ZONING AMENDMENTS</p> <p>9-26 ZONING AMENDMENTS</p>	<p>9-21 COMMERCIAL DISTRICT</p> <p>9-22 INDUSTRIAL DISTRICT</p> <p>9-23A COMMUNITY OPEN SPACE AND RECREATION (COSR) DISTRICT</p> <p>9-23.a,b,c HISTORIC OVERLAY DISTRICT</p> <p>FLOOD PLAIN CONTROLS AND ESTABLISHMENT OF THE FLOOD PLAIN DISTRICT</p> <p>9-28 GENERAL PROVISIONS</p> <p>9-29 DEFINITIONS</p> <p>9-30 ESTABLISHMENT OF FLOOD PLAIN ZONING DISTRICTS</p> <p>9-31 DISTRICT PROVISIONS</p> <p>9-32 SPECIAL EXCEPTIONS: FACTORS TO BE CONSIDERED</p> <p>9-33 EXISTING STRUCTURES IN FLOODPLAIN AREAS</p> <p>9-34 USES</p> <p>ARTICLE 4 Permits</p> <p>9-9 GENERAL EFFECT</p>	<p>9-24 to 27 (ENFORCEMENT, Amendments, BZA) should be moved to later in the Chapter, and in some cases expanded. (See civil penalties insert).</p> <p>Flood Plain District is currently tacked onto the end of the chapter, directly following BZA appeals. Move this Article to be grouped with the other zoning districts/overlays.</p> <p>After setting forth the Zoning Districts, the chapter should progress to the regulation of zoning through permits.</p>

Current Order	Proposed Order	Notes on Changes
<p>ARTICLE 6 ZONING APPEALS</p> <p>9-27 BOARD OF ZONING APPEALS</p> <p>ARTICLE 7 FLOOD PLAIN CONTROLS AND ESTABLISHMENT OF THE FLOOD PLAIN DISTRICT</p> <p>9-28 GENERAL PROVISIONS</p> <p>9-29 DEFINITIONS</p> <p>9-30 ESTABLISHMENT OF FLOOD PLAIN ZONING DISTRICTS</p> <p>9-31 DISTRICT PROVISIONS</p> <p>9-32 SPECIAL EXCEPTIONS: FACTORS TO BE CONSIDERED</p> <p>9-33 EXISTING STRUCTURES IN FLOODPLAIN AREAS</p> <p>9-34 USES</p>	<p>9-10 USE PERMIT REQUIRED</p> <p>9-13 PARKING</p> <p>9-15 PROHIBITED USES</p> <p>9-16 NON-CONFORMING USES AND STRUCTURES</p> <p>9-17 LIMITATION ON THE OCCUPANCY OF A DWELLING UNIT</p> <p>Section 9-17A. MOBILE TEMPORARY STRUCTURES</p> <p>ARTICLE 5 ARB</p> <p>9-23x ARB ESTABLISHED, GOVERNS HISTORIC OVERLAY</p> <p>9-14 SIGNAGE</p> <p>ARTICLE 6 ENFORCEMENT, VIOLATIONS, PENALTIES, AND REMEDIES (to replace current Article 4 (“enforcement”))</p>	<p>PARKING section after PERMITS</p> <p>Here, the chapter should progress to the ARB. Its establishment & what it regulates, incl. 9-14 SIGNAGE.</p> <p>The Historic Overlay should be referred to in the same section near the beginning of the chapter, as it functions similarly to other Zoning Districts.</p> <p>Insert civil penalties, which also distinguishes criminal offenses. General purpose & intent, general enforcement, types of violations generally, specific violations, summary table of common civil violations and fines</p>

Current Order	Proposed Order	Notes on Changes
	ARTICLE 7 ZONING AMENDMENTS 9-26 ZONING AMENDMENTS ARTICLE 6 ZONING APPEALS 9-27 BOARD OF ZONING APPEALS	(adapting Herndon's template), procedures for civil violations.

CHAPTER 9

ZONING

ARTICLE 1 THE CONSTITUTION OF THE ORDINANCE

- 9-1 TITLE
- 9-2 PURPOSE AND INTENT
- 9-3 SEVERABILITY
- 9-4 CONFLICTING ORDINANCES
- 9-5 MINIMUM REQUIREMENTS
- 9-6 EFFECTIVE DATE
- 9-7 COPY ON FILE

ARTICLE 2 GENERAL REGULATIONS

- 9-8 TERRITORIAL APPLICATION OF REGULATIONS
- 9-9 GENERAL EFFECT
- 9-10 USE PERMIT REQUIRED
- 9-11 ZONING MAP
- 9-12 ZONING DISTRICT BOUNDARIES
- 9-13 PARKING
- 9-14 SIGNAGE
- 9-15 PROHIBITED USES
- 9-16 NON-CONFORMING USES AND STRUCTURES
- 9-17 LIMITATION ON THE OCCUPANCY OF A DWELLING UNIT
- 9-17A MOBILE TEMPORARY STRUCTURES

ARTICLE 3 ZONING DISTRICTS

- 9-18 ZONING DISTRICTS ESTABLISHED
- 9-19 RESIDENTIAL DISTRICT
- 9-20 AGRICULTURAL DISTRICT
- 9-21 COMMERCIAL DISTRICT
- 9-22 INDUSTRIAL DISTRICT
- 9-23 HISTORIC OVERLAY DISTRICT

9-23A COMMUNITY OPEN SPACE AND RECREATION (COSR) DISTRICT

ARTICLE 4 ENFORCEMENT

9-24 ENFORCEMENT

9-25 VIOLATIONS AND PENALTIES

ARTICLE 5 ZONING AMENDMENTS

9-26 ZONING AMENDMENTS

ARTICLE 6 ZONING APPEALS

9-27 BOARD OF ZONING APPEALS

ARTICLE 7 FLOOD PLAIN CONTROLS AND ESTABLISHMENT OF THE FLOOD PLAIN DISTRICT

9-28 GENERAL PROVISIONS

9-29 DEFINITIONS

9-30 ESTABLISHMENT OF FLOOD PLAIN ZONING DISTRICTS

9-31 DISTRICT PROVISIONS

9-32 SPECIAL EXCEPTIONS: FACTORS TO BE CONSIDERED

9-33 EXISTING STRUCTURES IN FLOODPLAIN AREAS

9-34 USES

ARTICLE 1 THE CONSTITUTION OF THE ORDINANCE

Sec. 9-1. TITLE

Chapter 9 of the Code of the Town of Clifton, Virginia, shall be designated the Zoning Ordinance of the Town of Clifton, Virginia, and may be so cited.

Sec. 9-2. PURPOSE AND INTENT

The Zoning Ordinance of the Town of Clifton, Virginia is intended to promote the health, safety and general welfare of the public.

To accomplish these ends, the Zoning Ordinance is designed:

- a. to create and maintain conditions under which people and their environment can exist in a productive and enjoyable harmony while fulfilling the social, economic and other requirements of present and future generations;
- b. to maintain a convenient, attractive and harmonious community;
- c. to recognize the needs of agriculture, housing, industry and business in the Town's future growth; and to preserve the historic features of the Town;
- d. to provide residential areas with healthy surroundings for family life;
- e. to protect against destruction of or encroachment upon historic areas or historic structures;
- f. to promote the conservation of natural resources;
- g. to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forestation, scenic vistas, and other similar areas, and to ensure that development in such areas is well controlled;
- h. to protect against the following: overcrowding of land; undue intensity of noise; air and water pollution; undue density of population in relation to available community facilities; obstruction of light and air; danger and congestion in travel and transportation; and loss of life, health, or property from fire, flood, panic or other dangers;
- i. to accomplish all other objectives and exercise all other powers set forth in Article 8 Chapter 11, Title 15.1 of the Code of Virginia.

Sec. 9-3. SEVERABILITY

Should any section or any provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

Sec. 9-4. CONFLICTING ORDINANCES

Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or other Town ordinance or regulation, the provision of this Ordinance shall govern. Whenever any provision of any State or Federal statute or other Town ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other Town ordinance or regulation shall govern.

Sec. 9-5. MINIMUM REQUIREMENTS

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not the intent of this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use and dimensions of buildings or premises, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern, except where expressly qualified by this Ordinance.

Sec. 9-6. EFFECTIVE DATE

The Zoning Ordinance of the Town of Clifton, Virginia, as herein presented, was adopted on January 6, 2000, and became effective at 1 a.m., on January 7, 2000, at which time the Zoning Ordinance of the Town of Clifton, Virginia, as adopted in 1994 and as amended was repealed.

Sec. 9-7. COPY ON FILE

A certified copy of the Zoning Ordinance of the Town of Clifton, Virginia, as may be amended from time to time, shall be filed in the Office of the Clerk to the Town Council.

ARTICLE 2 GENERAL REGULATIONS

Sec. 9-8. TERRITORIAL APPLICATION OF REGULATIONS

The provisions of this Ordinance shall apply to all land and all structures in the incorporated territory of the Town of Clifton, Virginia.

ARTICLE 3 ZONING DISTRICTS

Sec. 9-11.ZONING MAP

The boundary lines of the zoning districts established herein shall be shown on a map of the Town, a copy of which shall be kept in the office of the Clerk to the Town Council and shall be available for public use and inspection.

Sec. 9-12.ZONING DISTRICT BOUNDARIES

The boundary line of the districts shall be as established and shown on the Zoning Map. The district boundary lines shall be, unless otherwise shown on the Zoning Map or herein described, either the center lines of streets or roads or railroads, or lines parallel or perpendicular thereto, as noted on the Zoning Map. The Zoning Map and all notations, dimensions, and designations shown thereon shall be as much a part of this Chapter as if fully described herein; however, in the case of a conflict between the Zoning Map and the text of the zoning ordinance or its written amendments thereto, the text shall govern.

Sec. 9-18.ZONING DISTRICTS ESTABLISHED

- a. The Zoning Districts in the Town of Clifton shall be as follows:
 1. Residential District
 2. Agricultural District
 3. Commercial District
 4. Industrial District
 5. Community Open Space and Recreation (COSR) District
 6. Low Impact Commercial District

- b. The zoning overlay districts in the Town of Clifton shall be as follows:
 1. Historic Overlay District
 2. Floodplain Overlay District

Sec. 9-19. RESIDENTIAL DISTRICT

- a. In a Residential District no building shall be erected, enlarged, or used, and no land shall be used, except for one or more of the following purposes:
 1. Single family dwelling.
 2. Churches, parsonages, community buildings and parks.
 3. Home Businesses.
 4. Private garages and accessory buildings.
 5. Boarding or maintaining of horses on a lot of no less than two (2) acres.

- b. Buildings and structures in Residential Districts shall be regulated as follows:
 1. Minimum lot size: Five acres.
 2. Maximum height of building: Thirty-five (35) feet.
 3. Building set-back requirements:

Front: Forty-five (45) feet from centerline of abutting street.

Side: Ten (10) feet from adjoining property lines on either side of a building.

Rear: Twenty-five (25) feet from adjoining property line in the rear of the lot, except corner lots which set-back shall be the same as the side-yard requirement. In no case shall any building or structure be erected, constructed, or enlarged within ten (10) feet of any adjoining property line. The setback line shall be measured from the closest part of the structure to the property line, including porches, etc., but excluding any roof overhangs and any uncovered stairway or steps, provided that such stairway or steps do not extend more than four (4) feet beyond any wall of the structure.

Exception: any building or addition may be set back from a street the same distance as the set-back line observed by that one, of the two existing buildings on the immediate adjoining lots on either side, which is nearer to the street centerline. A building or addition may be permitted to set back from the street less than the required set-back to conform to the set-back established by adjacent existing buildings located on that side of the street within the same block. An addition may be permitted to set back from the street less than the required set-back to conform to the existing building set-back, but no closer to the street than the existing building.

4. The minimum lot width shall be one hundred (100) feet measured at the front setback line, which width shall continue back to the midpoint of the lot depth.

5. The minimum frontage of a lot shall be sixty (60) feet.

6. Retaining walls exceeding two (2) feet in height may not be erected without a Use Permit issued by the Town Council.

7. Fences may not be erected without the approval of the ARB. Fences six (6) feet or less in height may be erected in any location regardless of the set-back requirement. Fences greater than six (6) feet in height may not be erected in the set-back yard area. Fences may not be erected that exceed eight (8) feet in height or that obstruct safe passage of vehicular traffic or that obstruct necessary sight distances. Fences 6 feet or less in height do not need to be reviewed by Planning Commission..

8. Garages, tool sheds, and other similar detached accessory structures may be erected on any property, provided that such detached accessory structures, except garages, not exceed one hundred (100) square feet in floor area and provided that such structure shall conform to the set-back requirements as specified for a Residential District. However, accessory buildings as described above, may be located up to ten (10) feet from the railroad right-of-way and up to ten (10) feet from the rear property line.

9. Apartments, including duplexes, townhouses, and other multi-family or attached dwellings, shall be allowed only by special use permit issued by the Town Council and subject to appropriate and reasonable restriction in order to preserve the historic nature of the Town consistent with the intent and purpose of the Zoning Ordinance and the Historic Overlay District.

10. Minimum lot size shall calculated on the gross area of the lot, except when thirty (30) percent or more of the total area of the lot is comprised of any or all of the following features:

- A. Floodplains and adjacent slopes in excess (15) percent grade.
- B. Quarries.
- C. Marine clays.
- D. Existing water bodies, unless a water body is a proposed integral design component of an open space system for a given development. When thirty (30) percent or more of the total area of the lot is comprised of any or all of the above features, then the calculated size (for the purposes of meeting minimum list size) of the area exceeding thirty (30) percent (containing any or all of the above features) will be reduced by fifty (50) percent. The fifty (50) percent reduction shall apply, notwithstanding that such areas may be used for open space, parks, schools, rights-of-way or utility easements.

c. Definitions

1. Home Business

One or more businesses, for each of which a separate use permit must be obtained, conducted entirely within a dwelling, or operated primarily from said dwelling, or in any structure appurtenant thereto, and which use is ancillary to the primary use of the lot for dwelling purposes provided the following requirements are met for all such businesses:

- A. that the dwelling is the bona fide residence of the owner(s) of the business;
- B. that the total area utilized by all such businesses, regardless of location on the lot, may not exceed 20% to 25% of the gross floor space of the dwelling;
- C. that all such businesses may have no more than one employee on site at any one time, who is not a full time resident of the dwelling;
- D. that no sales of goods, provision of services, pickups or deliveries, or other activities occur in connection with all such businesses which result in visits to the premises by more than six people per day and not to exceed more than two client, customer, pick-up or delivery vehicles, situated on or about the premises at any one time; provided, however, that visits by the public, customers or clients, in numbers greater than six people per day, and the display of merchandise may be permitted on an individual basis for special occasions, such as a sale, fair, or class, as specified on the use permit;
- E. that there be no identification sign or advertising sign for all or any such businesses;
- F. that all such businesses may operate within those hours approved by the Town Council and set forth on the use permit; provided, however, the hours of business during which clients or customers may visit, or pick-ups and deliveries be made to the premises, are to be not earlier than 8 a.m. and not later than 9 p.m., except when all provisions of 9-19.C.1. (K) have been met.

G. all work and storage in connection with any such businesses must be within a completely enclosed building and screened from public view as noted in the use permit;

H. no noxious, dangerous, harmful or offensive dust, odors or fumes shall be generated in connection with any such businesses;

I. no dangerous or explosive materials may be stored on the premises in connection with any such businesses;

Overlay District and the J. that all such businesses be consistent with the purpose and intent of Historic Town Plan of Clifton.

District, providing the K. A Bed & Breakfast may be permitted as a home business with the Residential following conditions are met:

impact on neighboring 1. The Planning Commission, after soliciting citizen comment, finds the residences to be negligible;

accommodations in a private, 2. the proposed Bed & Breakfast must provide overnight owner occupied home that provides not more than three (3) guest rooms for occasional guests;

residential" by VDOT; 3. the use shall be permitted only on streets designated as "non-

adjacent to the parcel or parcels 4. the parking area shall be screened from residential properties upon which the B&B is located;

5. Food services shall be limited to food provided to overnight lodgers and their immediate family, friends, or business associates only.

6. no outdoor parking shall be allowed within setbacks.

may arrive later than 9 p.m. All provisions of 9-19.C.1. must be met and complied with, except that guests and depart before 8 a.m. All applicable State and County regulations concerning Bed & Breakfast s must

be met and complied with. All adjacent property owners will be notified when a Use Application is filed or a Bed & Breakfast as a home business with the Residential District. The limitation on the number of clients in Section 9-19.c.1.D shall not apply to any Bed and Breakfast approved to operate under this Code, but shall in no case exceed the number of occupants for a residence, as specified in section 9.17.

2. Lot frontage: that dimension of a lot measured along the front street line thereof. The shorter street line of a lot abutting on more than one street shall be deemed to be the front street line thereof, regardless of the location of the principal entrance of a building on the lot.

3. Building Height:: the vertical distance to the highest point of the roof for flat roofs; to the deck line on mansard roofs; and the average height between eaves and ridge for gable, hip and gambrel roofs measured from grade.

4. Grade: For the purpose of calculating maximum building height, grade is determined by the lowest ground elevation at eight (8) feet from the building wall.

Sec. 9-20.AGRICULTURAL DISTRICT

a. The permitted uses in the Agricultural District shall be:

1. Farming, dairy farming, livestock and poultry raising, forestry, floriculture, and other uses commonly classed as agricultural, but not including the maintenance and operation of a commercial greenhouse, the feeding of garbage to animals, the raising of fur-bearing animals as a principal use, or the operation of or maintenance of a commercial stockyard or feed yard.
2. Wayside stands for the sale of products raised on the immediate premises.
3. Boarding horses.

4. If 75% of the land is used for a permitted use set forth in (l) of this paragraph, then only single family detached dwellings and home businesses, as defined in this Chapter, shall be permitted.

b. The minimum lot size requirement for the Agricultural District shall be five (5) acres.

c. The height, setback, lot width and frontage restrictions shall be the same as are required in the Residential District, section 9-19.

Sec. 9-21.COMMERCIAL DISTRICT

a. The permitted uses in a Commercial District shall be:

l. Offices.

2. Retail or wholesale trades and services, but not including any use which requires the accumulation of refuse or junk.

3. Uses permitted in the Residential District.

4. Private Schools.

5. Hotels, restaurants, bed and breakfast inn, and apartments, including duplexes, townhouses, and other multi-family or attached dwellings, shall be allowed only by special use permit issued by the Town Council and subject to appropriate and reasonable restrictions in order to preserve the historic nature of the Town, consistent with the intent and purpose of the Zoning Ordinance and the Historic Overlay District.

b. The minimum lot size requirement for the Commercial District shall be 10,000 square feet.

c. The height, lot width, frontage and setback restrictions of the Commercial District shall be the same as are required in the Residential District, section 9-19; except, however that the side yard set-back shall be twenty five (25) feet as a transitional yard where the Commercial District side yard property line abuts a parcel zoned residential.

Sec. 9-22.INDUSTRIAL DISTRICT

- a. The permitted uses in the Industrial District shall be:
 - 1. Manufacturing and assembly, provided that:
 - A. all work and storage is within a completely enclosed building and screened from public view;
 - B. no noxious, dangerous, harmful or offensive dust, odors or fumes shall be generated.
 - C. no dangerous or explosive materials are stored on the premises;
 - D. no noise generated by said manufacturing shall exceed 85 decibels as measured at the lot boundaries;
 - E. no substances generated by said manufacturing shall pollute the waters or waterways.
 - 2. Uses permitted in the Commercial and Residential Districts.
- b. The minimum lot size requirement for the Industrial District shall be 20,000 square feet.
- c. The height, setback, lot width and frontage restrictions shall be the same as are required in the Residential District, section 9-19.

Sec. 9-23A. COMMUNITY OPEN SPACE AND RECREATION (COSR) DISTRICT

- a. Permitted Land Uses shall be any of the following: Parks, parkland, playgrounds, athletic fields, stream valley parks, community structures, pavilions, and recreational, educational, and cultural facilities. All permitted land uses shall be for non-commercial and not-for-profit organizations.
- b. Permitted Special Event Uses are the types of events that are permitted in the COSR District. They are events and activities that are consistent with the community-oriented nature of the district. Examples of such are: holiday picnics and celebrations, educational uses, fine & performing arts events, school fair, fundraisers for non-profit organizations (such as marathons, breakfasts, and homes tours), athletic events, farmers' markets, antique auto shows, and over-flow parking from a community event not held in the COSR District (such as for a PTA function or for Clifton Day).
 - 1. A Special Event Use Permit shall be approved by the Town Council prior to the event being held.
 - 2. Recurring Special Events (such as a weekly farmers' market) can be included on one Special Event Use Permit application.
- c. Events not requiring Special Event Use Permits. Use permits are not required for Permitted Special Events with 20 or fewer participants.
- d. Prohibited uses are uses which are not Permitted Uses or Permitted Event Uses pursuant to this section.
- e. Parking. A sufficient number of off-street vehicular parking spaces shall be required to accommodate the vehicles of all employees or volunteer workers who will drive to the event, plus the vehicles of all persons who may be expected to visit the event at any one time. Public property

may be excluded from this requirement. The spaces shall be specified by the Use Permit issued by the Town Council.

f. The height, setback, lot width and frontage restrictions shall be the same as are required in the Residential District, section 9-

Sec. 9- 23B. LOW IMPACT COMMERCIAL DISTRICT

- a. The permitted uses in a Low Impact Commercial District shall be offices and uses allowed in the Residential District. One or more businesses shall be permitted, for each of which a separate use permit must be obtained, provided the following requirements are met for all such businesses: All use shall be conducted entirely within a building, or operated primarily from said building, or in any structure appurtenant thereto.
1. No sales of goods, provision of services, pickups or deliveries, or other activities occur in connection with all such businesses which result in visits to the premises by more than fifteen people per day, (exclusive of employees of such business);
 2. All such businesses may operate within those hours approved by the Town Council and set forth on the use permit; provided, however, the hours of business during which clients or customers may visit, or pick-ups and deliveries be made to the premises, are to be not earlier than 8 a.m. and not later than 9 p.m..
 3. all work and storage in connection with any such businesses must be within a completely enclosed building and screened from public view as noted in the use permit;
 4. no noxious, dangerous, harmful or offensive dust, odors or fumes shall be generated in connection with any such businesses; and
 5. no dangerous or explosive materials may be stored on the premises in connection with any such businesses.
- b. The minimum lot size requirement for the Low Impact Commercial District shall be 10,000 square feet.
- c. The height, lot width, frontage and setback restrictions of the Low Impact Commercial District shall be the same as are required in the Residential District, section 9-19; except, however that the side yard set back shall be twenty five (25) feet as a transitional yard where the Low Impact Commercial District side yard property line abuts a parcel zoned residential.

Sec. 9-23.HISTORIC OVERLAY DISTRICT

- a. Purpose. The Historic Overlay District is created for the purpose of promoting the general welfare, educational, and recreational pleasure of the public through the perpetuation of the historic nature of the Town and to maintain the historical, architectural and cultural significance of the Town.
- b. District boundaries. The Historic Overlay District shall cover all land within the boundaries of the Town.
- c. Prohibitions. No structure shall be erected, reconstructed, restored or have the exterior altered in the District until a Certificate of Appropriateness for the work has been approved by the Architectural Review Board (ARB), following the procedures set forth below;

nor shall any building in the District be demolished, razed, relocated or moved until a Certificate of Appropriateness has been approved by the ARB. However, a Certificate of Appropriateness will not be required if the structure being erected, constructed, reconstructed, restored, demolished, razed or altered does not exceed 100 square feet in size. No sign, fence and/or retaining wall shall be erected or modified in the District until a Certificate of Appropriateness has been approved by the ARB.

ARTICLE 7 FLOOD PLAIN CONTROLS AND ESTABLISHMENT OF FLOOD PLAIN DISTRICT

Sec. 9-28. GENERAL PROVISIONS

a. Statutory Authorization and Purpose

This ordinance is adopted pursuant to the authority granted to localities by Va. Code§ 15.2-2280. 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

1. 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;
2. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
3. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
4. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

b. Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Clifton and identified as being flood-prone, as defined herein.

c. Compliance and Liability

1. 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.
2. 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, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
3. Records of final actions associated with administering this ordinance shall be kept on file by the Town Clerk and maintained by the Town of Clifton.
4. This ordinance shall not create liability on the part of the Town or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

d. Abrogation and Greater Restrictions

Upon adoption, this ordinance will be the Flood Plain ordinance of the Town of Clifton.

e. 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.

f. Violations

Any person who fails to comply with any of the requirements or provisions of this article shall be subject to the penalties and enforcement procedures in accordance with Sections 9-24 and 9-25 of the Town Code.

Sec. 9-29 - DEFINITIONS

- a. Base Flood- A flood having a one percent chance of being equaled or exceeded in any given year.
- b. Base Flood Elevation: The FEMA designated one hundred (100) year water surface elevation; the water surface elevation of the base flood in relation to the datum specified on the Town of Clifton's Flood Insurance Rate Map; the one hundred (100) year flood or 1% annual chance flood, is the Base Flood Elevation.
- c. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- d. Development - Any man-made change to improved or unimproved real estate resulting in land disturbance in excess of 2500 square feet or 100 cubic yards of fill, including, but not limited to, the erection of buildings or other structures, or the substantial improvement thereto, storage of equipment or materials, mining, or dredging.
- e. Elevated Building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- f. Encroachment - The advance or infringement of development into a floodplain, from an adjacent property, which may impede or alter the flow capacity of a floodplain.
- g. Flood or Flooding
 - 1. A general or temporary condition of partial or complete inundation of normally dry land areas in the flood plain or floodway from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 - c. mudflows which are proximately caused by flooding as defined in paragraph (l)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- h. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the FEMA Flood Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- i. Flood Insurance Study (FIS) -an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- j. Floodplain or Flood-Prone Area- The land areas in and adjacent to streams and watercourses subject to continuous or periodic inundation from flood events with a one (1) percent chance of occurrence in any given year.
- k. Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
 - 1. 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.
- m. 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. When a freeboard is included in the height of a structure, the flood insurance premiums will be significantly cheaper.
- n. Highest Adjacent Grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- o. Historic Structure- Any structure that is
 - 1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- a. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- b. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- c. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - A. by an approved state program as determined by the Secretary of the Interior; or,
 - B. directly by the Secretary of the Interior in states without approved programs.
- p. Lowest Floor- The lowest floor of the lowest enclosed area (including basement).
- q. Manufactured Home- A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, storage units, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- r. New Construction-. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after May 2, 1977, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- s. Recreational Vehicle- A vehicle which is
 - 1. built on a single chassis;
 - 2. contains 400 square feet or less when measured at the largest horizontal projection;
 - 3. designed to be self-propelled or permanently towable by a light duty truck; and,
 - 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- t. Special Flood Hazard Area- The land in the floodplain as shown on the FIRM (subject to a one (1%) percent or greater chance of being flooded in any given year).
- u. Start of Construction - Means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- v. Structure Means that which is built or constructed and affixed to the ground, including but not limited to, walled and roofed buildings, swimming pools, gas or liquid storage tanks that are principally above ground, as well as manufactured homes and all mobile homes that remain upon the property in excess of 180 days, unless in conjunction with construction in which case they shall be allowed for the duration of construction.
- w. Substantial Damage- Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- x. Substantial Improvement- Any modification, alteration, repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. Substantial

improvement shall include structures which have incurred substantial damage regardless of the actual repair work performed, but shall not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 2. any alteration of a Historic Structure or the land on which an Historic Structure is located, if necessary to protect the existence and character of the Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.
- y. Violation- the failure of a structure or other development to be fully compliant with this ordinance.

Sec. 9-30- ESTABLISHMENT OF FLOOD PLAIN ZONING DISTRICTS

- a. Description of Districts
 1. Basis of Districts

The various Floodplain Districts shall include Special Flood Hazard Areas, as defined in this ordinance, the Floodway district, defined below and the Special Floodplain District, defined below. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Fairfax County and the Town of Clifton prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 17, 2010, and any subsequent revisions or amendments thereto.

The boundaries of the Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file by the Town of Clifton.

A. 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 one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined shown on the accompanying Flood Insurance Rate Map.

B. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.

2. Overlay Concept

A. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the Floodplain Districts shall serve as a supplement to the underlying district provisions.

B. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the Floodplain Districts shall apply.

C. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the remaining underlying provisions shall remain applicable.

- b. District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Town where natural or man-made 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 such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

- c. Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Town Council. Should a dispute arise concerning the boundaries of any of the districts, the Town Council 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 Town Council and to submit his own technical evidence if he so desires.

d. Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from man-made physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

Sec. 9-31- DISTRICT PROVISIONS

a. Permit and Application Requirements

1. Permit Requirement

All Development occurring within any Floodplain District shall be undertaken only upon the issuance of a use permit, issued by the Town of Clifton pursuant to its ordinances ("Use Permit"). Such Development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, federal or state, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town's Subdivision Regulations, and other zoning requirements of the Town of Clifton. Prior to the issuance of any such Use Permit, the Town of Clifton shall require the applicant certify compliance with all applicable state and federal laws; that the Development site is reasonably safe from flooding; and that under no circumstances shall any Development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system, within any Floodplain District. The applicant shall be required to demonstrate that all State and Federal permits required of the application have been obtained, prior to the issuance of any such Use Permit. The applicant shall be required to pay all fees incurred by the Town of Clifton for the review of the Use Permit including, but not limited to, the fees of the Town of Clifton's independent engineer consultant.

2. Site Plans and Permit Applications

All applications for Development within any Floodplain District and all Use Permits issued for the Floodplain shall incorporate the following information:

- A. The elevation of the Base Flood at the site.
- B. The elevation of the Lowest Floor (including basement).
- C. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
- D. Topographic information showing existing and proposed ground elevations.

b. General Standards

The following provisions shall apply to all Use Permits in a Flood Plain District:

- 1. New Construction and Substantial Improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- 2. New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 3. New Construction or Substantial Improvements shall be constructed by methods and practices that minimize flood damage.
- 4. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 5. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- 6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. In addition to provisions 1-7 above, in all Flood Plain Districts, the additional provisions shall apply:
- 8. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these

organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator. In addition the applicant is required to insure that all Federal and State permits that are required at the time of application have been obtained.

9. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

c. Specific Standards

In all Flood Plain Districts where base flood elevations have been provided in the Flood Insurance Study or generated according to accepted engineering practices and FEMA practices, the following provisions shall apply:

1. Residential Construction

New Construction or Substantial Improvement of any residential Structure shall have the lowest floor, including basement, elevated to or above the Base Flood Elevation by eighteen inches.

2. Non-Residential Construction

New Construction or Substantial Improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood elevation by (eighteen (18) inches). Buildings located in all AE zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the Base Flood Elevation plus eighteen inches are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Town of Clifton with the final site plans.

3. Elevated Buildings

Fully enclosed areas of New Construction or Substantially Improved Structures, which are below the regulatory flood protection elevation shall:

A. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator), or entry to crawl space.

B. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

C. include, in the Special Floodplain District measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

iv. The bottom of all required wall openings shall be no higher than one (1) foot above the adjacent grade.

v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

4. Standards for Manufactured Homes and Recreational Vehicles
 - A. All Manufactured Homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Sections 9-31b and c.
 - B. All Recreational Vehicles placed on sites must either:
 - i. be on the site for fewer than 180 consecutive days;
 - ii. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or
 - iii. meet all the requirements for Manufactured Homes in Sections 9-31 b and c.

d. Standards for the Floodway District

The following provisions shall apply within the Floodway District:

1. Encroachments, Development, New Construction, Substantial Improvements are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the Base Flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town.

Development which increases the water surface elevation of the Base Flood may be allowed, provided that the applicant first applies with the Town's approval through the Use Permit process, for a conditional Flood Insurance Rate Map and Floodway revision, and receives the approval of the Federal Emergency Management Agency, demonstrates no adverse impact on the floodwater elevation and obtains the appropriate easements from the adjoining landowners.

The placement of Manufactured Homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

e. Standards for the Special Floodplain District

The following provisions shall apply within the Special Floodplain District:

No New Construction, Substantial Improvements, or other Development (including fill in excess of 100 cubic yards) shall be permitted within the areas of Special Flood Hazard, designated as Zone AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the Base Flood more than one foot at any point within the Special Floodplain District.

Development activities in the Special Floodplain District which increase the water surface elevation of the Base Flood by more than one foot may be allowed, provided that the applicant first applies, with the Town's approval as part of the Use Permit process, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

f. Standards for Subdivision Proposals

All subdivision proposals to be located in any Floodplain District shall be consistent with Chapter 10 of the Town Code and in addition shall:

1. Be consistent with the need to minimize flood damage;
2. Shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. Shall have adequate drainage provided to reduce exposure to flood hazards, and

4. Base Flood Elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Sec. 9-32- SPECIAL EXCEPTIONS: FACTORS TO BE CONSIDERED

Special exceptions shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Town of Clifton has determined that failure to grant the special exception would result in exceptional hardship to the applicant, (iii) after the Town of Clifton has determined that the granting of such special exception 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; and (iv) after the review and recommendation of the Planning Commission with respect to such application for a special exception.

While the granting of special exceptions generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a special exception diminishes. Special Exceptions may be issued by the Town of Clifton for New Construction and Substantial Improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood level, in conformance with the provisions of this section.

Special Exceptions may be issued for New Construction and Substantial Improvements and for other Development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the Structure or other Development is protected by methods that minimize flood damages during the Base Flood and create no additional threats to public safety.

In passing upon applications for Special Exceptions, the Town of Clifton shall ascertain that all relevant factors and procedures specified in other sections of the zoning ordinance are satisfied and consider the following additional factors, where applicable:

- a. The danger to life and property due to increased flood heights or velocities caused by Encroachments. No Special Exception shall be granted for any proposed Development within any Floodplain District that will cause any increase in the one hundred (100)-year flood elevation.
- 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 systems 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 Town of Clifton Comprehensive Plan and floodplain management program for the area.
- 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 flood waters expected at the site.
- l. The historic nature of a structure. Special Exceptions for repair, reconstruction, or rehabilitation of Historic Structures and the land around it, may be granted upon a determination that the proposed repair, reconstruction, or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the Special Exception is the minimum necessary to preserve the historic character and design of the structure.
- m. Such other factors which are relevant to the purposes of this ordinance.
- n. The Town of Clifton may refer any application and accompanying documentation pertaining to any request for a Special Exception 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, and all such resultant fees shall be borne by the applicant.

The applicant shall notify all adjoining landowners and all landowners immediately across the street from the applicant's property of the applicant's application for a Special Exception and shall provide a copy of the application thirty days prior to the consideration of the application for a Special Exception by the Planning Commission.

The applicant shall submit the application and proof of compliance with all required information set forth in the ordinance to the Planning Commission in accordance with the procedures for the filing of Use Permits.

Special Exceptions shall be issued only after the Town of Clifton has determined that the special exception will be the minimum required to provide relief.

The Town of Clifton shall notify the applicant for a Special Exception, in writing and signed by Chairman of Planning Commission, that the issuance of a Special Exception to construct a Structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) may result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all Special Exception actions, including justification for the issuance of the Special Exception. Any Special Exceptions that are issued shall be provided to the Federal Insurance Administrator at its request.

Sec. 9-33 -EXISTING STRUCTURES IN FLOODPLAIN AREAS

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 in the Floodplain District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the Base Flood Elevation.
- b. Any modification, alteration, repair, reconstruction, or improvement of any kind to a Structure located in the Floodplain District to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.
- c. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC, unless such structure is an Historic Structure.

Sec. 9-34- USES

- a. Permitted Uses

The following uses and topographic improvements may be permitted in Floodplain Districts if, and only if, upon a determination of the Town of Clifton that such use is permitted in the zoned district in which located, and that the use is in accordance with the provisions of this Floodplain Ordinance.

1. Residential uses and accessory residential uses such as play areas, lawns, play courts, trails, gardens, patios, and decks.
2. Community, commercial and public recreational uses consistent with the Town of Clifton Comprehensive Plan and Historical Overlay District, such as picnic grounds, parks, wild life and nature preserves, and hiking, bicycle and equestrian trails. This paragraph shall not be deemed to permit any paved tennis or play courts, or any use requiring the approval of a Building Permit or requiring fill on the floodplain.
3. Off street parking and loading areas including aisles and driveways.
4. Where approved by the Town of Clifton, railroad track and roadway floodplain crossings meeting VDOT and/or Fairfax County design requirements and where any additional rise in water surface will not have an adverse effect upon the floodplain and/or will be set aside in an easement.
5. Public and private utility lines, and all public uses and public improvements performed by or at the direction of the Town of Clifton, or may be required by the Town of Clifton, to include but not be limited to channel improvements and erosion control, reservoirs, storm water management and best management practice facilities and similar uses provided the installation of such facilities is accomplished with appropriate easements or agreements and with the minimum disruption to the floodplain.

All new and replacement water supply and sanitary sewage systems in the Floodplain and the designated districts shall be designed, located and constructed so as to minimize waters into the system, and discharge from the sewage system into flood waters. All new and replacement gas and electrical systems shall be designed, located, and constructed so as to minimize or eliminate flood damage.

6. Substantial Improvement to Structures, additions or permitted accessory structures to single family dwellings constructed prior to May 2, 1977, subject to the following conditions:
 - A. The estimated cost of the addition or permitted accessory structure is less than fifty (50) percent of the assessed value of the existing structure
 - B. Meets all general and specific standards for construction set forth in the Floodplain Ordinance.
 - C. As may be required by the Town of Clifton, the applicant and owners shall sign a "hold harmless" agreement holding the Town of Clifton and/or Fairfax County harmless from all adverse effects which may arise as a result of the construction and establishment of the proposed use within the floodplain. Such an agreement shall be recorded among the land use records of Fairfax County.
 - D. No fill impacting the Floodplain elevation is required.
7. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, arts 116.4 and 261.30 et seq in a floodplain.
8. For uses other than those enumerated in above, the applicant shall demonstrate to the satisfaction of the Town of Clifton the extent to which:
 - A. There are no other feasible options available to achieve the proposed use; and
 - B. The proposal is the least disruptive option to the floodplain; and
 - C. The proposal meets the environmental goals and objectives of the adopted Town of Clifton Comprehensive Plan for the subject property.
9. Nothing herein shall be deemed to prohibit the refurbishing, repair, or reconstruction of an existing Structure, as long as such actions do not change the Structure's status as a Historic Structure, or its location within the Clifton Historic District, providing such improvements are done in conformance with the Virginia Uniform Statewide Building Code and the Town of Clifton Zoning Ordinances.
10. Nothing herein shall be deemed to preclude public uses and public improvements performing by or at the direction of the Town of Clifton, as long as there is no impact to Flood Plain elevations.

ARTICLE 4 PERMITS

Sec. 9-9. GENERAL EFFECT

No structure shall hereafter be erected and no existing structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used or arranged to be used for any purpose other than that which is included among the uses listed in the following Articles, as permitted in the zoning district in which the structure or land is located, nor shall any land or structure be used in any manner contrary to any other requirements specified in this Ordinance. A structure shall be defined as that which is built or constructed and affixed to the ground, including but not limited to: buildings, including garages; sheds; greenhouses; swimming pools; fences; and the like. A building shall be defined as any structure used or intended for supporting or sheltering any use or occupancy.

Sec. 9-10. RESIDENTIAL AND NON-RESIDENTIAL USE PERMITS

a. Permit Required for Occupancy or Use.

No occupancy or use shall be made of any structure hereinafter erected or of any premises hereinafter improved, and no change in use shall permitted, unless and until a Residential or Non-Residential Use Permit has been approved in accordance with the provisions of this Section. A Residential or Non-

Residential Use Permit shall be deemed to authorize and is required for both the initial and continued occupancy and use of the building or land to which it applies.

b. When Required.

A Residential or Non-Residential Use Permit, whichever is applicable, shall be obtained before any person shall:

1. Occupy or use, or permit or cause to be occupied or used, any building or structure hereafter erected;
2. Change the use, or permit or cause a change in the use, of any existing building;
3. Occupy or use any vacant land;
4. Make any change in the use of a non-conforming use;
5. Enlarge any use; or
6. Continue any use after a change in the ownership or proprietorship of such use, except a single family dwelling or agricultural use (a change in ownership shall include any transfer of more than 50% of the stock of the applicant or the sale or lease of more than 50% of the assets of the corporation).

c. Application for a Permit.

Written application for a Residential or Non-Residential Use Permit shall be made to the Town of Clifton in accordance with the administrative procedures and forms promulgated by the Planning Commission and available from the Town Clerk and the Town of Clifton website. The Residential or Non-Residential Use Permit Application shall be accompanied by, if applicable, a Fairfax County Building Permit Application (and any fees therefor) and a fee of:

- 1) \$250.00, for adding to existing buildings, or new residential construction other than new homes, where the addition or new construction costs over \$25,000.00;
- 2) \$500.00, for new home or commercial construction;
- 3) \$250.00 plus all costs for advertising for new special use permits in the Commercial District under Sec.9-21(a)(5) and new Bed & Breakfast use permits in the Residential District under Sec. 9-18(c)(K);
- 4) \$75.00 plus all costs for advertising for any amendment to a special use permit in the Commercial District under Sec.9-21(a)(5) or amendment to a Bed & Breakfast use permit in the Residential District under Sec.9-18(c)(1)(K); or
- 5) \$75.00, for all other construction, and any other use permit. Such fees shall be payable to the Town of Clifton and delivered to the Town Clerk together with the required written application, as required by the administrative procedures promulgated by the Planning Commission and available from the Town Clerk and the Town of Clifton website.

d. Standards for Issuance of a Permit.

1. The following minimum requirements must be met prior to preliminary issuance of a Residential or Non-Residential Use Permit:
 - A. Compliance with the zoning district regulations;
 - B. Provision of adequate parking;

Chairman of the ARB);

C. Issuance of an ARB Certificate of Appropriateness (or a waiver from the

D. For any use that will result in a land disturbing activity that will exceed an area of 2,500 square feet, submission of a plan of development as described in the Town's Chesapeake Bay Preservation Ordinance; and

E. Compliance with such other provisions as may be deemed reasonable and necessary by the Town Council to fulfill the purpose and intent of the Zoning Ordinance of the Town of Clifton and the Historic Overlay District.

2. The following minimum requirements must be met prior to final issuance of a Residential or Non-Residential Use Permit:

A. Completion of the work or change, covered by the preliminary issuance of the Residential or Non-Residential Use Permit, in compliance with the minimum requirements set forth in paragraph 1. of this subsection and such other requirements as may be set forth in the Residential or Non-Residential Use Permit; and

B. If applicable, issuance of and compliance with (as evidenced by passage of all final inspections) a Fairfax County Building Permit.

e. Procedure for Consideration of Application for a Permit.

1. Within a reasonable time after receipt by the Town Clerk of the materials required to be submitted under subsection C. of this section, the Planning Commission shall review the Residential or Non-Residential Use Permit Application and shall recommend to the Town Council the approval or denial of the preliminary issuance of a Residential or Non-Residential Use Permit thereon.

2. Within a reasonable time after the Planning Commission making its recommendation for the approval or denial of the preliminary issuance of a Residential or Non-Residential Use Permit, the Town Council shall approve or deny the preliminary issuance of the Residential or Non-Residential Use Permit

3. Within a reasonable time after receipt by the Town Clerk of written notice of the completion of the work or change, covered by the preliminary issuance of the Residential or Non-Residential Use Permit, and, if applicable, compliance with (as evidenced by passage of all final inspections) a Fairfax County Building Permit, the Planning Commission shall recommend to the Town Council the approval of the final issuance of the Residential or Non-Residential Use Permit, unless it should appear to the Planning Commission that the occupancy or use is not in compliance with the standards set out in subsection D. of this section.

4. Within a reasonable time after the Planning Commission making its recommendation for the approval or denial of the final issuance of a Residential or Non-Residential Use Permit, the Town Council shall approve or deny the final issuance of the Residential or Non-Residential Use Permit.

5. Neither the Planning Commission nor the Town Council is required to take any action provided for under this subsection until the applicant complies with the provisions of subsection f. of this section.

f. Notice of Hearings and Attendance at Hearings.

The applicant shall post a notice (on forms provided by the Town Clerk) of the Residential or Non-Residential Use Permit Application in the Post Office and on the property concerned at least one week before the Planning Commission and Town Council meetings at which preliminary and final approval of the Residential or Non-Residential Use Permit is sought. The applicant or his agent must be present at all hearings on the Application before the Planning Commission and the Town Council and must provide proof of the notice required herein.

g. Permit Not To Validate Any Violation. No Residential or Non-Residential Use Permit shall be deemed to validate any violation of any provision of this or any other law or ordinance.

h. Revocation of Permit. The Town Council may revoke an approved Residential or Non-Residential Use Permit when it is determined that such approval was based on a false statement or misrepresentation of fact by the applicant.

i. Expiration of Permit. All Residential or Non-Residential Use Permits and ARB Certificates of Appropriateness shall expire at the end of two years from the date of issuance if construction has not been fully completed by such time. All Residential or Non-Residential Use Permits applied for by a person or persons subject to a business license will expire three (3) months after written notification, by the Town Council, to the person or persons subject to the business license, of non-payment of the BPOL tax, penalties, and/or interest due and payable to the Town.

j. Extension of Permit. The Town Council may renew any Residential or Non-Residential Use Permit that has not expired and the ARB may renew any Certificate of Appropriateness that has not expired.

Sec. 9-10.1. BUILDING PERMITS

The erection of all buildings and all structures, additions, deletions, and modifications thereto, shall be subject to the provisions of Chapter 61 of the Code of Fairfax County, Virginia. However, no building or structure, or addition, deletion, and modification thereto shall be erected until a Fairfax County Building Permit Application has been approved by Fairfax County, Virginia.

Sec. 9-13.PARKING (Revised & Adopted June 3, 2014)

a. Definitions.

1. Off-Street Parking - any space, whether or not required by the provisions of this Ordinance, specifically allotted to the parking of motor vehicles as an accessory use. For the purpose of this Ordinance, such space shall not be located in a dedicated right-of-way, a travel lane, a service drive, or any easement for public ingress and egress.
2. Gross Floor Area - the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term "gross floor area" shall include basements; elevator shafts and stairwells at each story; floor space used for mechanical equipment with structural headroom of six feet six inches or more; penthouses, attic spaces, whether or not a floor has actually been laid, providing structural headroom of six feet six inches or more; interior balconies; and mezzanines.

The gross floor area of structures devoted to bulk storage of materials shall be computed by counting each ten feet of height or fraction thereof as being equal to one floor.

The term "gross floor area" shall not include balconies which do not exceed a projection of six feet beyond the exterior walls of the building.

3. Net Floor Area - the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls and from the centerline of walls separating two or more buildings. In the instance where one or more separate uses are contained within one building, the determination of the net floor area for one use shall be based upon the total horizontal area designated for that use, measured from the interior faces of exterior walls and from the interior faces of walls separating individual uses.

The term "net floor area" shall exclude areas designed for permanent uses such as toilets, utility closets, mechanical and equipment rooms, public and fire corridors, stairwells and elevators. Generally, the amount of total net floor area of a building can be considered to be eighty (80) percent of the total gross floor area of the same building.

b. Non-Conforming Uses.

1. Any non-conforming use or structure which lawfully existed at the time of passage or any amendment of section 9-13 may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years.
2. When a non-conforming use or structure which is rendered non-conforming because of the operation of section 9-13 is enlarged, extended or expanded, whether indoors or outdoors, the current minimum off-street parking requirements shall be provided for the area or capacity of such enlargement, extension, or expansion. A change of ownership, in itself, without any enlargement, extension or expansion of the use or structure, shall not be deemed a new use for purposes of Section 9-13, but shall require a use permit application pursuant to Section 9-10. Structural alternations may

be made to a structure which is non-conforming so long as such alternations do not enlarge, extend or expand such non-conformance. In all cases, state fire regulations must be complied with. Nothing herein shall prevent the strengthening or restoring to a safe and lawful condition of any part of any building declared unsafe by the Fire Marshall or other authorized person. Compliance with the minimum off-street parking requirements shall not be required for an expansion or enlargement to provide an accessibility improvement.

3. A non-conforming use changed or altered to a more restricted use or a conforming use may not thereafter be changed back to the original non-conforming use.

c. Off-street Parking Spaces.

Minimum required vehicular off-street parking spaces for uses within the Town.

1. Residential: at least two (2) off-street parking spaces shall be required for each new residential dwelling unit used solely as a residence or any commercial premises used also as a residence.
2. Restaurant: one (1) off-street parking space for every four (4) customer seats plus one (1) space for every two employees on the premises during peak hours of operation shall be required.
3. Commercial uses:
 - A. Office: one (1) off-street parking space for every two hundred and seventy five (275) square feet of gross floor area shall be required; unless the building is utilized by more than one type of commercial use, in which case one (1) off street parking space for every two hundred and twenty (220) square feet of net floor area shall be required.
 - B. Retail: one (1) off-street parking space for every two hundred (200) square feet of gross floor area shall be required, plus one (1) space for every two (2) employees on premises during peak hours; unless the building is utilized by more than one type of commercial use, in which case one (1) off street parking space for every two hundred and twenty (220) square feet of net floor area shall be required, plus one (1) space for every two (2) employees on premises during peak hours.
 - C. Takeout of Food and Beverages: one (1) off-street parking space for every one hundred (100) square feet of gross floor area shall be required plus one (1) space for every two (2) employees on premises during peak hours.
4. The Town Council may modify requirements for off-street parking for office, retail, restaurant and commercial uses when it can be demonstrated that a particular use will not require the number of parking spaces calculated under the provisions of this section, or when the applicant has more than one type of commercial use at the location. However, in no instance shall the number of parking spaces approved for a given use fall below that needed for one (1) employee. The applicant/user shall demonstrate to the Town Council's satisfaction that a parking reduction is warranted.
5. Industrial uses: one (1) off-street parking space for every employee on a major shift, plus one (1) space for every company vehicle and piece of mobile equipment, plus a sufficient number of spaces for all those persons who may be expected to visit the same at any one time, shall be required.
6. Churches: one (1) space for every four (4) seats in the principal place of worship shall be required.

7. Public and quasi public uses, including but not limited to post offices, fire stations, government facilities and parks: one (1) off-street parking space for every employee on the premises at any one time plus one (1) space for every company vehicle and piece of mobile equipment shall be required. Furthermore, additional spaces deemed by the Town Council to be necessary for public parking may be required and will be based upon the type of use and the anticipated need for such parking.

8. For all other uses not specified herein, including, but not limited to Home Businesses, Schools, Classes, among others, a sufficient number of off-street vehicular parking spaces shall be required to accommodate the vehicles of all employees of the establishment, plus those of all persons who may be expected to visit the same at any one time. The spaces shall be specified by the use permit issued by the Town Council.

9. One loading space per building shall be required for all commercial uses for which regular deliveries or pick ups are made, unless deliveries will not occur during operating hours. A loading space shall be at least 8.5'x25'. The Town Council is authorized to waive the loading requirement when a determination is made that the proposed use can be adequately served by an existing or on or off-site loading area or where the provision of a loading area is not feasible because of the location of existing buildings or structures. Required off-street loading spaces may be provided jointly for two or more uses subject to the approval by the Town Council. The overall number of loading spaces may be reduced by the Town Council where adjacent uses can demonstrate that they can be adequately served by a shared loading facility.

10. Where fractional spaces result from the minimum calculations required herein, the parking spaces required shall be the next whole number.

11. All required vehicular off street parking spaces for non-residential structures or uses permitted in the Commercial or Industrial District shall be located on the same lot as the structure or use to which they are accessory except

A. Required off street vehicular parking spaces may be provided cooperatively for two or more commercial structures or uses within five hundred (500) feet of one another, subject to arrangements or agreements that will assure the permanent availability of such spaces to the satisfaction of the Town Council. The amount of such combined parking space shall equal the sum of the amounts required for the separate uses; provided, however, that the Town Council may reduce the total number of parking spaces required when it can be determined that the same spaces may adequately serve two or more commercial structures or uses by reason of the hours of operation of such structures or uses.

B. Pedestrian access to the structure or use for which parking is needed shall be direct, convenient and safe.

12. No off-street vehicular parking for a non residential structure or use permitted in a Commercial or Industrial District shall be located in a Residential District except upon approval of a special exception application by the Town Council. The Town Council may approve such an application but only where the following conditions can be met:

A. The residentially zoned property in question shall be within five hundred (500) feet of the non residential use or structure and the residentially zoned property shall be used as a Church or Public or Quasi-Public Use; the use of

such residentially zoned property shall be subject to such arrangements or agreements that will assure the permanent availability of such spaces to the satisfaction of the Town Council. The amount of such combined parking space shall equal the sum of the amounts required for the separate uses; provided the Town Council may reduce the total number of parking spaces required when it can be determined that the same spaces may adequately serve the two uses or structures referred to herein, by reason of the hours of operation of such structures or uses. The proposed parking shall be so configured as to provide convenient direct and safe pedestrian access to the structure or use in question.

- B. The proposed parking shall not, in and of itself be intended for use as a commercial enterprise.
- C. Vehicular parking shall not be located closer to any lot line abutting a Residential District than the corresponding distance required for a building set-back on the adjacent residential lot.
- D. The use of residentially zoned land for off-street vehicular parking for a commercial use shall not conflict with the provisions of the Comprehensive Plan, the Historic Overlay Zoning District, and the remaining provisions of this Ordinance.

d. Measurements.

Each automobile parking space and travel aisle shall comply with the following tables and provisions.

PARKING SPACES			
Direction of Parking	Stall Width ft (m)	Depth of Stalls ft	Aisle Width ft
One-way aisle (one-side parking)	8 (2.4)	18	16
One-way aisle (two-side parking)	8 (2.4)	18	16
Two-way aisle (two-side parking)	8 (2.4)	18	16

UNIVERSAL SIZE CAR SPACES				
Parking Angle	Stall Width ft (m)	Depth of Stalls Perpendicular to Aisle ft*	One-way Aisle ft*	Two-Way Aisle
45°	8.5 (2.6)	18	16	16
60°	8.5 (2.6)	18	16	16
90°	8.5 (2.6)	18**	16	16
				W
* Where required, fire lanes shall have a minimum width of 18' (5.5m).				
** This dimension may be reduced by up to 1.5' (0.45m) where the Town Council determines that adequate "head-in" overhang exists exclusive of required planting or screening requirements, and sidewalks.				

When provided, motorcycle parking spaces shall conform to the following minimum geometrics. The stall width shall be 4' (1.2m) and the depth of the stall perpendicular to the aisle shall be 9' (2.7m). The travel aisle shall be as set forth in the Tables above. Motorcycle parking spaces shall not be considered in the required parking tabulation.

All off-street parking and loading areas shall be delineated by painted lines, wheel stops or other markings.

e. Setbacks.

Setbacks for all off-street parking areas shall conform to those established herein for buildings, except as may be modified by the use permit, where permissible.

f. Lighting.

In districts other than residential, or when residential property is approved for use as accessory parking to a commercial use, lighting of off-street parking areas shall be arranged so as not to cause glare onto the abutting or facing land zoned or being used as residential. Lighting shall be minimal and serving only to provide security for patrons of the structure or use for which parking is accessory. The parking area shall be generally illuminated in accordance with the hours of general operation of the structure or use for which it is associated.

g. Surface.

In districts other than residential, or when residential property is approved for use as accessory parking to a commercial use, any newly constructed off-street parking areas shall be constructed and maintained with a dustless surface which shall be defined to include asphalt, stone, gravel and alternate surface materials such as, but not limited to, porous pavement, gravel-pave, and pervious pavers.

h. Drainage.

Provisions for adequate storm-water drainage shall be made for all off-street parking areas.

i. Signs.

In districts other than residential, or when residential property is approved for use as accessory parking to a commercial use, signs indicating the location of off-street parking shall be prominently located for the convenience of the public.

j. Junk Vehicles.

In all districts, the parking of junk vehicles in view from public streets shall be prohibited. A junk vehicle shall be defined as any motor vehicle, trailer or semi-trailer which is inoperable and which by virtue of its condition cannot be economically feasibly restored. Any vehicle will be presumed to be a junk vehicle when: (a) valid license plates are not displayed, or license plates have been expired for more than sixty (60) days; or (b) valid state inspection stickers, as required for use of the vehicle, are not displayed, or have been expired for more than ninety (90) days; or (c) the vehicle remains in an inoperable condition for more than ninety (90) days.

k. Commercial Vehicles.

In all districts, except commercial and industrial, the parking of commercial vehicles shall be prohibited. A commercial vehicle shall be defined as any vehicle, used for business purposes having more than four wheels.

l. Off-street Parking and Loading Areas.

All off-street parking and loading areas shall be properly maintained in good condition, free from debris and potholes. All lines, headers, wheel stops, markings, and the like, shall be kept clearly visible and in place.

m. Off-street Parking Area Access.

All off-street parking areas shall have safe, direct and convenient access to a public street. All entrances and exits must comply with any regulations or rules by the Virginia Department of Transportation or Fairfax County.

n. Stacking.

Parking spaces may be "stacked" for up to two vehicles in Residential districts, for residential parking in commercial districts, and only for employee parking in commercial districts, such that one vehicle must be moved in order to move another vehicle, so long as there is a total depth of 36 feet for the two stacked parking spaces, and so long as there is direct access to a street or an aisle for exit and entrance for vehicles from the stacked parking spaces.

o. Off-street Parking for Commercial Structures.

Off- street parking for commercial structures or uses, including residential property approved for use as accessory parking to a commercial structure or use, shall be solely for parking of vehicles by patrons, occupants, or employees of the use or accessory use; no motor vehicle repair work or motor vehicle sales, may be performed in such parking areas.

p. Landscaping and Screening Requirements.

Landscaping requirements and screening may be required to minimize the impact of the use with respect to other nearby or adjacent residential or commercial properties.

q. Dumpsters.

All dumpsters located in such parking areas for a commercial structure or use shall be screened with fencing approved by the ARB.

r. Fencing.

Any such approved fencing for a commercial property, structure or commercial use may be 8 feet in height.

Sec. 9-15. PROHIBITED USES

- a. No mobile home or van shall be occupied on any lot on a permanent basis in any district.
- b. Bookstores dealing in pornographic literature, massage parlors, or similar uses shall not be allowed in any district.

Sec. 9-16. NON-CONFORMING USES AND STRUCTURES

- a. Any non-conforming use or structure which lawfully existed at the time of the passage of this Chapter may be continued and any such existing non-conforming building or structure may be restored or structurally altered provided it shall meet the requirements of this section and all other sections of this Chapter, the Code of the Town of Clifton and other applicable statutes and ordinances.
- b. Alteration, extension or enlargement of non-conforming uses or structures. Changes in non-conforming uses or structures in all Districts shall conform to the following requirements:
 - 1. Any structure or use of land which is non-conforming because of use shall not be enlarged or extended in any manner whatsoever.
 - 2. There shall be no structural alterations made to any non-conforming building or structure that is non-conforming because of use. Structural alterations may be made to a building which is non-conforming because it fails to comply with height, area, yard, off-street parking or other like requirements of this Chapter, so long as such alterations do not extend or enlarge the non-conformance. In all cases, state fire regulations must be complied with as to access and fire-resistance of the structure. Nothing herein shall prevent the strengthening or restoring to a safe and lawful condition of any part of any building declared unsafe by the Fire Marshal or other authorized person.
 - 3. A non-conforming use changed or altered to a more restricted use or a conforming use may not thereafter be changed back to the original non-conforming use.
 - 4. In the event that there shall be a cessation of operation of any nonconforming use for a period of twenty-four consecutive calendar months, the cessation shall be an abandonment of such non-conforming use. Any subsequent

attempt to rely upon, exercise, or reinstate such abandoned non-conforming use shall be a violation of the terms of this Chapter.

5. Nothing in this Chapter shall require any change in plans, construction, or designated use of a structure or building for which a building permit has been heretofore validly issued if construction has been started and diligently prosecuted at the time of the adoption of this Chapter.

6. Nothing in this Chapter shall be construed as authorization for or approval of the continuance of the use of a building, structure or premises in violation of any zoning ordinances, rules or regulations in effect immediately preceding the time of the effective date of this Chapter, unless such use ceases to be in violation under the provisions of this Chapter.

c. Restoration of existing buildings which are non-conforming because of use. Nothing in this Chapter shall prevent the restoration or continuance of a non-conforming building or structure which is non-conforming because of its use and which is partially destroyed by fire, explosion, act of God, or by any public enemy, or the like, if the extent of the destruction be not more than fifty per cent (50%) of the tax appraisal of record of the whole building or structure at the time of the partial destruction. If, however, any such building or structure shall be destroyed in the manner aforesaid to an extent exceeding fifty per cent (50%) of the tax appraisal of record of the whole building or structure at the time of such destruction, then the same may only be reconstructed and thereafter used in such a manner as to conform to all requirements, terms and conditions of this Chapter.

d. Restoration of existing buildings which are non-conforming because of reasons other than use. Nothing in this Chapter shall prevent the restoration or continuance of a non-conforming building or structure which is non-conforming because it fails to comply with any height, area, yard, off-street parking or other like requirements of this Chapter, and which is partially destroyed by fire, explosion, act of God, or by any public enemy, or the like, provided that any restoration of any such building or structure shall comply with Paragraph (b) (2) of this section.

e. No non-conforming building or structure shall be moved on the same lot or to any other lot which is not properly zoned to permit such non-conforming use.

f. Structures may be erected, developed, rebuilt, restored, structurally altered, reconstructed or improved provided it shall meet the requirements of this section and all other sections of this Chapter, the Code of the Town of Clifton and all other applicable statutes and ordinances on any non-conforming lot:

1. which is presently existing or has been approved by the Town of Clifton prior to September 2, 1986, and recorded in the County land records prior to July 1, 1987, of less than one acre, but 10,000 square feet or more,

2. which is presently existing or has been approved by the Town of Clifton prior to August 1, 1997, and recorded in the County land records prior to July 1, 1998, of less than five acres, but one acre or more.

g. Any non-conforming lot which is presently existing or has been approved by the Town Council prior to October 2, 1990 and recorded in the County of Fairfax land records at that time having less than a minimum lot width of one hundred (100) feet or a minimum frontage of sixty (60) feet shall be deemed to be a nonconforming lot. On such lot, structures may be erected, developed, rebuilt, restored, structurally altered, reconstructed or improved provided

it shall meet the requirements of this section and all other sections of this Chapter, the Code of the Town of Clifton and all other applicable statutes and ordinances.

Sec. 9-17. LIMITATION ON THE OCCUPANCY OF A DWELLING UNIT

A dwelling unit may be occupied by not more than one (1) family, and such family may consist of not more than one (1) of the following:

- a. One (1) person or two (2) or more persons related by blood or marriage with not to exceed two (2) roomers or boarders, and with any number of natural children, grandchildren, foster children, or adopted children. A roomer or boarder shall be defined as a person who rents and lives in one or more rooms of a dwelling from a person who owns and occupies the same dwelling for a period of not less than thirty (30) days.
- b. A group of not more than four (4) persons not necessarily related by blood or marriage.
- c. Any other housekeeping unit which may be approved by the Town Council as being compatible with the character of the neighborhood in which it is to be located, provided such housekeeping unit does not exceed ten (10) persons.

Section 9-17A. MOBILE TEMPORARY STRUCTURES

The outdoor storage of Mobile Temporary Structures is permitted in accordance with the standards listed below:

- a. A Mobile Temporary Structure is any assembly of materials which is not included in the definition of structure set forth in Section 9-9 of the Code, is not permanently affixed to the ground, and is not regularly operated and licensed in compliance with the Virginia Motor Vehicle Code, which may be used to contain tangible property and/or persons, whether for storage, occupancy, or commercial purposes; including but not limited to, dumpsters, storage pods, shipping containers, tiny houses, food trucks, truck trailers, mobile homes, and the like. All Mobile Temporary Structures must be authorized by Use Permit, except as set forth below, and any Mobile Temporary Structure which does not have a Use Permit authorizing its use, or is not in compliance with its Use Permit, shall not be allowed and will be considered to be a structure permanently affixed to the ground, pursuant to Section 9-9 of the Code for which a Use Permit and Certificate of Appropriateness shall be required.
- b. A Use Permit shall be required for all Mobile Temporary Structures, except for the following:
 - (1) The loading, unloading and/or temporary parking of any Mobile Temporary Structure for not longer than 72 hours, measured from the commencement of its location on any property in the Town to its removal from such property;
 - (2) The use of any Mobile Temporary Structure, commonly known as a dumpster, for the disposal of waste materials by persons or businesses having a valid residential Use Permit for construction, or a valid non-residential Use Permit, issued by the Town, allowing such Temporary Mobile Structure; provided that such Temporary Mobile Structure is maintained and emptied by a contractor licensed for such disposal services, is wholly located on private property and not in a public right of way, is specifically allowed and its location is specifically set forth in the Use Permit; any fencing required by the Use Permit or the Code is provided and its use does not extend beyond the period specified for the use authorized by the Use Permit.

c. 1 Except as provided above, the owner or lessee of any property in the Town on which Mobile Temporary Structures are to be located shall obtain a Use Permit, by filing an application for a Use Permit as set forth in Section 9-10 of the Code and pay a fee of \$25 to the Town.

- 2 Such Mobile Temporary Structures shall be no larger than 200 square feet, and no higher than 13 feet measured from the ground on which the Mobile Temporary Structure sits, to the top of the highest point on the Mobile Temporary Structure, but shall in no event be higher than the principal structure on the property; shall meet all set back requirements for the applicable zoning district under the Code, and shall be located whenever possible in the rear of the property.
- 3 Such Mobile Temporary Structure shall not be located in or impede the use of any parking area, loading area, aisle or driveway, unless it is the applicant's own and located in a residential district. However, such Mobile Temporary Structure may be located in a parking area for a property zoned commercial or industrial or for a residential public use zoned property, if such parking for the property and the uses thereon can be reduced based on the parking spaces presently required by existing use permits relating to the property.
- 4 No more than one Mobile Storage Structure may be located on a lot within the Town at one time.
- 5 The Use Permit shall set forth the exact location of the Mobile Temporary Structure on the property, the length of time such Mobile Temporary Structure is allowed on the property, whether fencing is required, and whether such Mobile Temporary Structure may be located within the setbacks of any commercially zoned property (but not within the setbacks of any residentially zoned property), and any other restrictions or requirements which may be deemed reasonable and necessary by the Planning Commission and the Town Council to fulfill the purpose and intent of the Zoning Ordinance of the Town of Clifton and the Historic Overlay District.
- 6 Any Mobile Temporary Structure may be replaced by another such assembly of materials of no larger size or capacity during the period for which a Use Permit continues in effect.

d. This Section shall be enforced in accordance with Article 4 of the Code.

ARTICLE 5 Architectural Review Board.

1. The Architectural Review Board (ARB) shall be established for the purpose of administering the provisions of the Historic Overlay District. The ARB shall be composed of five (5) or seven (7) voting members appointed by the Town Council, who shall be residents of the Town of Clifton, with a demonstrated knowledge of and interest in the preservation of historical and architectural landmarks. It is recommended that the composition of the ARB be as follows:

- A. At least one member shall be a certified architect;
- B. At least one member shall be a member of the Town Council;
- C. The other members shall be drawn from the interested citizens at large.

2. Members shall serve for a term of two years, and members may be reappointed to succeed themselves.

3. The members of the ARB shall elect a Chairman who shall call the meetings of the ARB when needed. All members shall be notified at least five days in advance of the meeting. All meetings shall be open to the public.

4. Robert's Rules of Order shall be the recognized authority as to any matter or procedure not covered by this Ordinance.

5. Members shall not vote on any action in which their financial interests or those of their immediate family are directly involved.

6. The ARB shall keep records of their proceedings and such records shall be made available to the public upon request to the Chairman.

e. Powers and duties of the ARB. The powers and duties of the ARB shall be as follows:

1. To hear and decide on the issuance of Certificates of Appropriateness for the erection (including siting), reconstruction, restoration, or exterior alteration of any building in the District.

2. To hear and decide on the issuance of Certificates of Appropriateness for the demolition, razing, relocation or moving of any building in the District.

fences.. 3. To hear and decide on the issuance of Certificates of Appropriateness for signs and

buildings. 4. To formulate recommendations concerning the use of markers for historic sites and

5. To cooperate with and enlist the assistance of the Fairfax County History Commission, the Virginia Landmarks Commission, the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties in efforts to preserve, restore, and conserve historic, architectural and/or aesthetic landmarks, buildings, sites or areas in the Town.

f. Application. Written Application for a Certificate of Appropriateness shall be filed with the ARB in accordance with the procedures and forms promulgated by the ARB and available from the Town Clerk and the Town of Clifton website. A fee of \$10.00 shall be paid for each sign and fence application; a fee of \$50.00 shall be paid for each sign and/or fence application submitted after installation of said sign and/or fence; a fee of \$100.00 shall be paid for each addition and/or remodeling project up to 200 square feet; and a fee of \$250.00 shall be paid for each addition and remodeling project exceeding 200 square feet or for new home construction, with each application filed before work on the structure has started. The applicant shall also pay any actual costs of any review fees incurred by the ARB, including any consultant's fees and other costs set forth in Virginia State Code Section 15.2-2286. All such fees shall be payable to the Town of Clifton and delivered to the Town Clerk.

g. The ARB shall review each application for a Certificate of Appropriateness promptly upon its receipt of the same. In reviewing applications for the erection, construction, reconstruction, remodeling, exterior alteration or restoration of a building or structure, the ARB shall not consider interior arrangement, and shall not make any requirements except for the purpose of preventing developments architecturally incompatible with the historic aspects of the Historic Overlay District. The ARB shall consider the following in determining the appropriateness of architectural features:

l. the exterior architectural features, including all signs;

2. the general design, arrangement, texture, material, and fenestration of the proposed building or structure and the relation of such factors to similar features of buildings or structures in the immediate vicinity of the historic and building within the Historic Overlay District;

3. the extent to which the building or structure would be harmonious with or architecturally incompatible with the historic district or historic landmarks;

4. the extent to which the building or structure will preserve or protect historic places and areas of historic significance in the Town;

5. the extent to which the building or structure will promote the general welfare of the Town and all citizens by the preservation and protection of historic places and areas of historic interest in the Town;

6. the standards and recommendations for development as set forth in the "Architectural & Planning Guidelines, Clifton, Virginia" for the Clifton Historic Overlay District.

h. In reviewing the application for a Certificate to raze or demolish any building or structure in the historic district, the ARB shall review the circumstances and the condition of the structure or part proposed for demolition and shall report its finding based on consideration of any or all of the following criteria:

1. Is the building of such architectural or historical interest that its removal would be to the detriment of the overall historic nature of the district?

2. Is the building of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?

3. Would retention of the building help preserve and protect the historic character of the district?

h. In reviewing an application for a Certificate to move or relocate any building or structure in the Historic District, the ARB shall consider the following criteria:

1. Would the proposed relocation have a detrimental effect on the structural soundness of the building or structure?

2. Would the proposed relocation have a detrimental effect on the historical aspects of other buildings in the Historic Overlay District?

3. Would relocation provide new surroundings that would be harmonious with or incongruous to the historical and architectural aspects of the structure or building?

4. Would relocation of the building help preserve and protect a historic place or area of historic interest in the Town?

j. The ARB, on the basis of the information received from the applicant and from its general background and knowledge, and upon application of the appropriate criteria set forth in Paragraphs g, h, and i above, shall approve, approve with modifications, or disapprove the

application. If the ARB disapproves the application, it shall, within three days, so notify the applicant in writing of the reasons for the disapproval.

k. Any person aggrieved by any decision of the ARB may appeal such decision to the Town Council, provided such

appeal is filed with the Clerk to the Town Council within ten (10) days of the ARB's decision. The Town Council shall hear the appeal within forty-five (45) days of the filing of the appeal. The ARB may present its reasons for its decisions at the appeal. The Town Council may affirm, reverse, or modify the decision of the ARB.

l. Any person or persons jointly or severally aggrieved by any decision of the Town Council or any officer, board or agency of the Town may appeal such decision to the Circuit Court of Fairfax County for review by filing a petition at law setting forth the alleged illegality of the action of the Town Council, provided such petition is filed within forty-five (45) days after the final decision is rendered by the Town Council. The filing of said petition shall stay the decision of the Town Council pending the outcome of the appeal to the Court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish any building or structure in the Historic District.

m. In addition to the right of appeal set forth in Paragraphs k and l above, the owner of a building or structure in the Historic District shall, as a matter of right, be entitled to raze or demolish such building or structure, provided that:

l. he has applied to the ARB for such right;

2. the owner has for the period of time set forth in the time schedule below and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building or structure, and the land pertaining thereto, to the Town, to any person, firm, corporation, or to any department, officer, agency, board of government of the Federal, State, or local governmental body, which gives reasonable assurance that it is willing to preserve and restore such landmark, building, or structure and the land pertaining thereto or described; and,

3. that no bona fide contract, binding upon all parties thereto shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule below. Any appeal which may be taken to the Court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one (1) year after a final decision by the Town Council, but thereafter, the owner may renew his request to the Town Council to approve the razing or demolition of the historic landmark, building, or structure. The time schedule for offers to sell shall be as follows:

A. Three (3) months when the offering price is less than twenty-five thousand dollars (\$25,000.00);

B. Four (4) months when the offering price is twenty-five thousand dollars (\$25,000.00) or more, but less than forty thousand dollars(\$40,000.00);

C. Five (5) months when the offering price is forty thousand dollars (\$40,000.00) or more, but less than fifty-five thousand dollars (\$55,000.00);

D. Six (6) months when the offering price is fifty-five thousand dollars (\$55,000.00) or more, but less than seventy-five thousand dollars (\$75,000.00);

E. Seven (7) months when the offering price is seventy-five thousand dollars (\$75,000.00) or more, but less than ninety thousand dollars (\$90,000.00);

F. Twelve (12) months when the offering price is ninety thousand dollars (\$90,000.00) or more.

Sec. 9-14 SIGNAGE (Revised, July 1, 2014)

The purpose of this section is to regulate the size, location, height, and construction of all signs to protect public safety, and encourage harmonious and cohesive signage in the Town. The intent is not to limit design and color options but is to maintain signage that is visually compatible with the architectural character of the buildings and the historic nature of the Town.

a. Administration

1. Certificate of Appropriateness. No sign shall be erected, altered, relocated or displayed without a Certificate of Appropriateness as issued by the Architectural Review Board (ARB). Such Certificate shall be issued when all requirements of this Article have been met and when ARB approval has been obtained. Existing approved signs, removed for repair, do not require a new Certificate of Appropriateness if repaired sign is exactly the same as the approved original and the repair is completed and the sign restored within six (6) months. Any business which relocates, must apply for a new Certificate of Appropriateness for the new sign location or new sign design.
2. Definition. A "sign" shall include any display that includes wording, numbers, symbols, images, characters, or any visual component used to identify or advertise, including but not limited to banners, canopies, flags, or balloons.
3. Business Signs. Signs serving a business may be erected only with an approved Use Permit.
4. Certificate. Existing signs with a Certificate of Appropriateness and lawfully placed as of the date of enactment of this section of the ordinance are exempt from the revisions hereof. If an exempt sign is removed, except for repair, it shall not be erected, altered, relocated, or displayed without approval.
5. Application. A completed and properly filed application for Certificate of Appropriateness, including filing fee, shall be filed with the Chairman of the ARB on forms, available at www.cliftonva.us. Applicant shall include a drawing of the proposed sign which clearly indicates size, color, letter style, materials, message content and a diagram indicating where on the property or building the sign will be located. Applications will be accepted only from the owner(s) of the property on which the sign is to be posted or their designated agent.

b. General Regulations.

1. Illumination. Signs in the commercial district may be indirectly lighted if the source of light is shielded so that it only lights the face of the sign.
2. Termination of Sign Permits. Whenever the use of a building or premises by a business is discontinued, signs pertaining to that business shall be removed within seven (7) business days following the vacation of the premises, or within fourteen (14) business days of normal business operations ceasing, whichever is sooner. It shall be the responsibility of the building owner to ensure such removal.

c. Permitted Signs.

1. Subdivision Signs. One sign per street entrance in subdivision shall be permitted with the sign area, color, height and style to match the existing street signs in the Town. Message content is limited to the name of the street, which shall be approved by the ARB. Such signs shall be placed, relative to the road right-of-way, to match the existing location of approved signs in Town.
2. Freestanding Signs.
 - A. Definition. A "freestanding sign" consists of a two-dimensional, single-sided or double-sided surface which may be mounted to or hung from a post, or posts, which are permanently affixed to the ground.
 - B. Location. The sign shall be placed in an appropriate area to designate the location of the business and the entrance of the business.
 - C. Boundaries. The sign shall not extend beyond the property line.
 - D. Height. The top of the sign shall not exceed six (6) feet above the ground. Supporting members shall not exceed seven (7) feet above the ground.
 - E. Historic Markers. Approved Historic Markers shall not exceed eight (8) feet in height.
 - F. Maximum Number. The maximum number of freestanding signs allowed on a property shall be no more than one (1), unless a Use Permit Holder operates a business with frontage on two state maintained roadways, in which case two (2) freestanding signs may be permitted.
 - G. Maximum Total Signage. Each freestanding sign shall contribute to the *maximum total signage* allowed per business, as described in 9-14.d.2.C., except for multi-tenant directory signs as permitted in section 9-14.c.5. and 9-14.d.2.C.i.
 - H. Building Access. Freestanding signs shall not be located in such a way as to impede visual or physical access to the building.
 - I. Materials. Freestanding signs shall meet criteria for approved materials, as described in 9-14.f.
3. Building Mounted Signs.
 - A. Definition. A "Building Mounted Sign" consists of a two-dimensional, single or double-sided surface which is permanently affixed to a building exterior wall or structure, either directly or through use of a bracket.
 - B. Position.
 - i. Shall be located on the building or structure in an approved location to identify either the presence of the business within the facility, or the primary entrance to the business.
 - ii. Mounted on a bracket.
 - a) 48" maximum projection from building surface.
 - b) 6'-8" minimum height from walking surface to the bottom of the sign.

- c) Shall not impede visual, or physical access to the building.
 - C. Maximum Total Signage. Each building mounted sign shall contribute to the *maximum total signage* allowed per business, as described in 9-14.d.2.C., except for multi-tenant directories as permitted in section 9-14.c.5. and 9-14.d.2.C.i.
 - D. Materials. Building mounted signs shall meet criteria for approved materials, as described in 9-14.f.
- 4. Enter and Open/Close. Each permitted business shall be allowed one (1) such informational sign to be mounted on the building or glass, or painted on the glass, within three (3) feet of the primary public entrance. The sign shall not exceed one and a half (1.5) square feet and must be approved by the ARB. Content is limited to "Open," "Closed," "Entrance," hours of operation, information related to business events, menus and special notices other than general business advertising. Such signs shall not contribute toward the maximum signage area permitted under section 9-14.d.
- 5. Building Directories. In addition to individual business signage, buildings with three (3) or more tenants may have an exterior building directory sign listing the current tenants with Use Permits in that building. The sign can be a wall mounted sign or a free standing sign.
 - A. Maximum Wall-mounted. The maximum size for a wall mounted building directory sign is four (4) square feet
 - B. Location. A wall mounted building directory sign shall be located in the proximity of the building entrance
 - C. Maximum Free-standing. The maximum size for a free standing building directory sign is nine (9) square feet
 - D. ARB Approved. Any building directory sign shall meet all requirements of this code and shall be approved by the ARB.
 - E. All Must Conform. Individual business listings on an approved Directory sign also must comply with section 9-14.d.2.C.i.
 - F. Building Access. Building Directory signs shall not impede visual or physical access to the building.
 - G. Materials. Building Directory signs shall comply with permitted materials as described in section 9-14.f.
- 6. Sandwich Boards and Movable Signs.
 - A. Definitions.
 - i. A "sandwich board" sign shall consist of a pair of two-dimensional surfaces, hinged together at the top to create a moveable, two-sided, freestanding surface.
 - ii. A "movable sign" may be a single two-dimensional sign not connected to a second panel, which is mounted on or against a structure, or via an integral support of complimentary material, which permits the sign to be easily removed and stored out of sight during non-business hours.
 - B. Maximum Size. Six (6) square feet maximum area per face.
 - C. Height. Maximum height for a sandwich board sign or movable sign shall be forty inches (40").
 - D. Boundaries. Sandwich Board signs and Moveable signs shall only be displayed on business property and in vicinity of the business the sign is serving.
 - E. Prohibited Locations. Shall never be located on sidewalks or in parking spaces.
 - F. Hours. Shall be displayed only during the firm's business hours and shall be stored out of view at all other times.

- G. Maximum Number. One sandwich board or movable sign per building is allowed, unless otherwise approved by the ARB, pursuant to an approved Comprehensive Signage Plan, as described in 9-14.e.2.B.
- H. Materials. Sandwich board signs and movable signs shall meet criteria for approved materials, as described in 9-14.f.
- I. Existing Certificate. Sandwich board signs and movable signs displayed with a Certificate of Appropriateness shall not contribute to the maximum total signage allowed per business, as specified in 9-14.c.2.G., except when used under an approved Comprehensive Signage Plan as specified in 9-14.e., in which case the Comprehensive Signage Plan shall dictate the approved number of all signs.

7. Memorial Markers

- A. Maximum Size. One (1) square foot maximum area.
- B. Ground Location. Ground-mounted markers shall be mounted level with the ground.
- C. Bench Location. Memorial markers on benches are permitted, but shall not exceed eight (8) square inches, and shall be mounted directly on back of bench.
- D. Prohibited. No memorial markers shall be allowed other than those set forth above.

8. Historic Markers.

- A. Appearance. All Historic Markers shall match the existing Town standard.
 - i. Size – twenty-two and a half inches wide by thirty inches high (22 1/2" W x 30" H);
 - ii. color -- dark forest green; and,
 - iii. Lettering style -- hand painted white or cream letters.
- B. Content. The message content shall be reviewed and approved by the Town of Clifton Historic Preservation Committee prior to approval by the ARB.
- C. Maximum Size. Approved Historic Markers shall:
 - i. Not exceed eight (8) feet in height;
 - ii. be freestanding signs; and,
 - iii. be mounted on an approved post.
- D. Materials. All historic markers shall meet criteria for approved materials, as described in 9-14.f.
- E. Excluded from Total Signage. Historic markers shall not contribute to the maximum signage allowed per business or Use Permit.

9. Parking Control Signs

- A. Purpose. The intent of this provision is to ensure that parking control signs make the least visual impact while conveying information deemed necessary to manage private, commercial parking facilities.
- B. ARB Approved. Signs displaying information regarding parking on privately-owned, commercially zoned property, or church property, are permitted only when approved by the ARB.
- C. Commercial. A commercial building may post one (1) approved parking control sign no larger than twelve inches high by twenty-four inches wide (12"H x 24"W) at each entrance to the facility parking lot.
- D. Directional. Where a parking facility is not clearly visible from the parking entrance sign location, one (1) additional approved sign not larger than six inches high by twenty-four inches wide (6"H x 24"W) may be posted to provide additional direction to parking spaces.

- E. Content. Approved parking facility signage may include only the name of the business, or identification of the property served by the parking facility, hours of use, directional symbols or lettering, and the words PARKING and ONLY.
- F. Towing Notice. A privately-owned, commercially zoned or church parking facility may post one towing notification sign with each approved parking entrance sign.
 - i. Such signage shall be consistent with the Fairfax County Code section 82-5-32;
 - ii. Must be attached to the same post as the parking entrance sign; and may not be larger than the minimum size required by the county.
- G. Location. Parking control signage shall be displayed only in specific locations approved by the ARB.
- H. Excluded from Total Signage. Approved parking control signage shall not contribute to the maximum aggregate size, and maximum number of signs described in 9-14.d.2.
- I. Materials. Parking control signage must comply with materials described in 9-14.f., except as permitted in 9-14.c.9.F.
- J. Boundary. Parking control signage may be displayed only on the same property as that occupied by the private business it serves, unless an agreement is in place to provide alternative offsite parking per code section 9.13.c.11. and/or 9.13.c.12. Such alternative use has to be approved by the Town Council and referenced in a valid, approved Use Permit.
- K. Building Access. Parking control signage may not be located in such a way as to block parking spaces, walkways, or access to the building.
- L. Height. Parking control signage and its supporting members may not exceed forty-eight inches (48") above grade.
- M. Individual Parking Control Signage. In the case where multiple buildings or parcels share a parking lot or entrance to a parking lot, pursuant to an enforceable agreement, or where private business parking adjoins town-owned or controlled parking, a business or commercial property owner may display one (1) individual parking control sign at each valid parking space identifying the business or commercial property the space serves. All such signage shall be approved by the ARB and may be placed only at parking spaces controlled by the business or property owner displaying the sign. Such signs shall not exceed forty-eight inches (48") height above grade, unless expressly required by county or state law.
- N. Temporary Signs. Temporary parking control signage is permitted for Town approved events.
 - i. May be posted one calendar day before the scheduled day of the event and for not longer than 48 hours.
 - ii. Such signage shall not exceed six (6) square feet. One such sign shall be permitted per parking facility.
- O. Prohibited. No other parking control signage, except as described in 9-14.c.9., is permitted.

10. Legally Required Signs. Any sign legally required by county, state, or federal authority is authorized.

d. Permitted Size and Number of Signs.

- 1. Residential District home business signs shall not exceed three (3) square feet.
- 2. Commercial District

- A. Maximum Size. No individual sign face shall exceed twelve (12) square feet, except signage located on or in front of a building face less than thirty (30) linear feet in length, which shall not exceed nine (9) square feet.
- B. Maximum Number. No business shall display more than two (2) individual general advertisement signs.
- C. Maximum Total Signage. The total area of all signage shall not exceed twelve (12) square feet per each business with an approved Use Permit, with the following exception:
 - i. Placards on Directories approved under 9-14.c.5 shall not be counted against the total allowable signage, or number of permitted signs for an individual business, provided the placard advertising that business does not exceed six inches (6") height or eighteen inches (18") length. Directory Placards exceeding either or both these dimensions shall be counted in all tabulations.
 - ii. For the purpose of meeting maximum total signage area, only one face of a two-sided sign shall be counted.

e. Alternate Compliance Method

1. Comprehensive Signage Layout Concept. Commercial District building owners may submit a Comprehensive Signage Layout Concept to the ARB for an individual building, indicating:
 - Potential sign locations;
 - Method of display and attachment; and,
 - Potential sandwich board locations.

The ARB review will consider:

 - Building size;
 - Amount of street frontage;
 - Multiple street frontages and public views; and,
 - Architectural integrity of signage impact.
2. The ARB, when deemed appropriate to maintaining the architectural character of the building and the Town, may change the allowable signage area and number permitted in section 9-14.d.2. based on an approved Comprehensive Signage Layout, as set forth below.

The ARB may allow the following changes:

- A. Apportioning. Buildings with multiple tenants having approved Use Permits may apportion differing amounts of signage to individual businesses. At no time may the total amount of all building signage exceed a number which uses the following multiplication factors:
 - i. Two or more stories. 0.6 square feet per lineal footage of building facing AND adjoining a VDOT maintained road or other public roadway, or a Town-owned or controlled parking facility, for buildings with two or more full stories above grade.
 - ii. One story. 0.3 square feet per lineal footage of building facing AND adjoining a VDOT maintained road or other public roadway, or a Town-owned or controlled parking facility, for buildings with one full story above grade.
 - iii. Differing Number of Stories. For buildings with distinct areas with differing number of stories, evaluate each area of the building where signs will be displayed using the appropriate multiplication factor. That

is, one-story sections will use the .3 factor and sections of two stories or more will use the .6 factor.

- iv. The above tabulations shall determine the total amount of signage permitted on the building, but approved signage may be located on any side of the building regardless of whether that side contributes to the allowable signage area, provided:
 - a) Signage on any one side of the building does not exceed the amount appropriate for that side, as demonstrated by conforming with the above tabulations,
 - b) The entire building does not exceed the maximum total area of signage permitted by the tabulations in 9-14.e.2.A.i thru 9-14.e.2.A.iii.

B. Sandwich and/or movable signs. An approved Comprehensive Signage Plan may allow additional sandwich board or movable signs as follows:

- i. Multi-tenant buildings with more than 65 lineal feet of building facing AND adjoining a VDOT maintained road or other public roadway, or a Town-owned or controlled parking facility shall be permitted a total of two (2) sandwich board signs or movable signs, provided no individual business displays more than one (1) such sign.

- 3. Approved Plans. An approved Comprehensive Signage Plan will include the prescribed location(s) for signs of a specified size. Subsequent changes in businesses occupying multi-tenant buildings shall not cause changes to the specified sizes or locations of signs in an approved Comprehensive Signage Plan.

f. Permitted Materials.

- 1. Wood. 3/4" or greater wood; all non-metallic paint sheens are acceptable.
- 2. PVC. 3/4" or greater painted, smooth, cellular PVC; all non-metallic paint sheens are acceptable.
- 3. High Density Urethane Foam. 3/4" - 2 1/2" thick High Density Urethane Foam, using one or more of the following surface finishes:
 - A. Matte finish acrylic lettering, symbols, or borders
 - B. Smooth, routed finish
 - C. Sandblasted finish
 - D. Rough textured grain finish
- 4. Matte, or Satin paint.
- 5. Iron brackets and frames.
- 6. Chalkboard surfaces for sandwich boards, movable signs, or building mounted signs smaller than two (2) square feet.
- 7. Other materials may be submitted for ARB consideration.

g. Prohibited Signs. The following signs are prohibited and shall not be erected. The Town Council,

and its agents are authorized to immediately remove and dispose of any such unlawfully erected sign.

- 1. Off-site. All off-site signs, including but not limited to real estate signs not on the property being advertised, unless otherwise approved by the Town Council.
- 2. Displayed on Public Property. Any sign erected on public property which is owned or leased by the Town of Clifton or any other public property, other than those erected at the direction of the Town. These include but are not limited to real estate and political

signs. Any such unlawfully erected sign is subject to immediate removal and disposal by the Town.

3. Stationary Vehicles. Any sign displayed on a stationary vehicle when said vehicle is used primarily for the purpose of and serving the function of a sign. An exception is made for those vehicles which are in fact regularly used for business transportation and delivery, and display the name of the related business or delivery service.
4. Illegal. Any sign that violates any provision of any law of the Commonwealth of Virginia relating to outdoor advertising on streets and highways.
5. Non-conforming Illuminated. Any illuminated sign other than those identified in sections 9-14.b.1.
6. Flashing. Any flashing sign.
7. String / Rope Lights. String lights or rope lights, or LED lights used as a sign, to illuminate a sign or as a border to a sign.
8. Trees and Vegetation. Any sign attached to vegetation, including trees.
9. Deteriorated. Any sign which has deteriorated or is in a state of disrepair.
10. No Certificate. Any sign which has been erected, mounted, or displayed after January 1, 1980 without an approved ARB Certificate of Appropriateness.
11. Non-conforming Digital / Electric. Any digital or electric sign other than those specifically permitted in section 9-14.
12. Signs consisting of illuminated tubing or neon.

h. Signs Not Requiring ARB Approval.

1. Church Sign Updates. Changing message content on approved church signs.
2. Installed by Government. Signs erected by the Town of Clifton, the State of Virginia or Fairfax County including, but not limited to traffic control signs signals, regulatory devices, legal announcements and directional signs.
3. Flags. National, State or local flags or other civic, charitable, educational or philanthropic groups or decorative flags without wording, which can in no way be construed as advertising and which are not otherwise prohibited by any statute or ordinance.
4. Address Numbers. Property address numbers when affixed directly to the building or mailbox.
5. Seasonal. Seasonal displays or decorations, not advertising a product, service or entertainment.
6. Contractor's Display. One contractor's sign may be displayed per construction project, and may not exceed nine (9) square feet in total area, and may not be posted longer than sixty (60) days, or the length of the project, whichever is shorter.
 - A. Extended Period. Signs posted beyond sixty (60) days require a Certificate of Appropriateness.
 - B. Certificate of Appropriateness. Contractors' signs with a Certificate of Appropriateness may not exceed nine (9) square feet and may be displayed for up to one hundred-eighty (180) days or until completion of work, whichever comes first.
7. Real Estate. Real Estate Signs for the purpose of advertising the sale or lease of the premises, limited to the following:
 - A. Each property for sale or lease shall be permitted one (1) sign, located anywhere on the property, advertising the sale or lease of said property. Property bordered by more than one road shall be permitted two (2) signs, with no more than one sign permitted on each road.
 - B. All real estate signs shall include the words "SALE" or "FOR SALE" or "RENT" or "FOR RENT" or some combination of these or similar words in lettering which is clearly legible from the road.
 - C. Size of the sign shall not exceed four (4) square feet. If freestanding, the height shall not exceed six (6) feet.

- D. Any "For Lease" or "For Rent" sign displayed longer than sixty (60) days shall require an ARB Certificate of Appropriateness.
- 8. Political Campaigns. Political campaign signs on private property may be erected not more than sixty (60) days prior to the election. Such signs shall be removed within seven (7) days after the election.
 - A. Political signs shall be freestanding and not attached to any building or vegetation.
 - B. Political Signs are limited to two (2) per property, may not exceed eight (8) square feet each and may not be illuminated.
- 9. Interior Display Signs. Interior signs are permitted on the interior of one window or door per business provided that they cover no more than twenty percent (20%) of the glass area to which they are affixed and that the same signs are not displayed for longer than thirty (30) days. Exception: The 20% requirement may be exceeded for posting of notices such as Certificates of Appropriateness, Use Permits, Building Permits and the like.
- 10. Each commercially-zoned building or church shall be allowed up to two (2) square feet of service signage that will not contribute toward the maximum total signage allowed under section 9-14.d. Such signage shall be limited to identification of delivery locations, trash and dumpster management, utility services , and other signage identifying building and service information, and shall not include advertising of any sort.
- 11. Special Events. Temporary banners or signs intended to notify the public of special events, not of a recurring nature, may be erected for no more than forty-five (45) days upon the specific, written approval of the Town. Any such banner or sign must be removed within seven (7) days following the event announced.

i. **Violations.**

This section of the Code, 9-14 SIGNAGE, shall be enforced by the Architectural Review Board, which for the purposes of Section 9-14 is the Town Council's duly authorized agent.

- 1. No Certificate. Signs displayed without a Certificate of Appropriateness
 - A. Written Notice. The business and the building owner shall receive written notification of the violation.
 - B. Conformance. Upon notification, the business or the building owner shall immediately remove the sign or submit an application for a Certificate of Appropriateness to the ARB within five (5) business days of receipt of the written notification or be subject to the fines detailed below. If a Certificate of Appropriateness is approved and issued there shall be no fines imposed. If the application is not approved the business or the building owner shall remove the sign within five (5) days of the ARB decision or be subject to the fines detailed below.
- 2. Prohibited Signs. Any sign that is expressly prohibited under section 9-14.g shall be removed within five (5) days of written notification provided by the Town. If such signs are not removed within five days the business and building owner will be subject to fines as detailed below. The ARB will not accept or review applications for signs that are expressly prohibited by section 9-14.g.

3. Violation Fines. Fines of \$100 per day of violation for each sign displayed without a Certificate of Appropriateness shall be assessed to the building owner.
 - A. Fines will begin to accrue five (5) business days after written notification is provided for any sign identified as a Prohibited Sign; or,
 - B. Any sign which has not been submitted for a Certificate of Appropriateness.
 - C. Fines will begin to accrue five (5) business days after any denial of an application for Certificate of Appropriateness.
4. Enforcement. Violations shall be subject to the provisions of Article 4 Enforcement of the Zoning Code.

ARTICLE 6 ENFORCEMENT, VIOLATIONS, PENALTIES, AND REMEDIES

Sec. 9-24.ENFORCEMENT

This Ordinance shall be enforced by the Town Council or its duly designated agent. If the Town Council or its agent finds that any of the provisions of this Ordinance are being violated, they shall notify in writing the owner of the property and the occupant of the property of the nature of the violation and shall allow a reasonable time for correction of the violation.

Notice to the owner shall be sufficient if sent by certified or registered mail, postage prepaid, to the address of the owner indicated in the current tax records of Fairfax County. Notice to the occupant shall be sufficient if sent by certified or registered mail, postage prepaid, to the property.

In the event that the violation is not corrected, then the Town Council or its agent may bring legal action to insure compliance with the provisions, including, but not limited to, injunction, abatement, or other appropriate action or proceeding.

Sec. 9-25.VIOLATIONS AND PENALTIES

a. Any person, whether owner, lessee, principal, agent, employee, or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or uses any land in violation of any detailed statement or plan submitted by him and approved under the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of up to One Thousand Dollars (\$1,000.00). Each day that a violation continues shall be deemed a separate offense.

b. Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this Ordinance shall be and the same is hereby declared to be unlawful.

c. The Town Council or its agent may initiate injunction, mandamus, or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance. Such action may also be instituted by any citizen who may be aggrieved or particularly damaged by any violation of any provisions of this Ordinance.

d. Upon its becoming aware of any violation of any provisions of this Ordinance, the Town Council or its agent shall serve notice of such violation on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the Town Council or its agent has specified in such notice, it shall institute such action as may be necessary to terminate the violation.

- e. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

INSERT CIVIL PENELTIES HERE

Article XVII. - ENFORCEMENT, VIOLATIONS AND REMEDIES

Sec. 78-170. - Enforcement, violations and remedies.

The following sections contain provisions for enforcement of zoning regulations, remedies for violations and penalties for unresolved violations.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.1. - Generally.

- (a) *Purpose and intent* . This section establishes procedures through which the town seeks to ensure compliance with the provisions of this chapter and obtain corrections for chapter violations. It also sets forth the remedies and penalties that apply to violations of this chapter. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.
- (b) *Compliance required* . Compliance with all provisions of this chapter is required. It shall be unlawful for any person to construct, reconstruct, alter, demolish, change the use of, or occupy any land, building, or other structure within the town in violation of this chapter.
- (c) *Permits required* . All persons, firms, and corporations shall obtain all permits required by the town prior to commencing any use or building within the town.
- (d) *Responsible persons* . Any person who violates this chapter shall be subject to the remedies and penalties set forth in this article.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.2. - Enforcement, generally.

- (a) *Responsibility for enforcement of zoning provisions* . The zoning administrator shall enforce this chapter. The zoning administrator shall be provided with the assistance of such other persons as the Town Council may direct.
- (b) *Notice of violations* . When the zoning administrator finds that any activity, building, structure, or land is in violation of this chapter, the zoning administrator shall notify, in writing, the person violating this chapter, as follows:
 - (1) *Content of notice* . Such notification shall indicate the nature of the violation, order the necessary action to abate the violation, give a deadline for correcting the violation, and include an indication of the applicable appeal fee and a reference to where other information regarding the appeal process may be obtained regarding the filing of the appeal to the board of zoning appeals.
 - (2) *Fee* . The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs.
 - (3) *Limitation on penalty during appeal process* . Any civil penalty for appealed violations of the zoning ordinance shall not accrue or be assessed during the pendency of the period in which to file an appeal to the board of zoning appeals.

- (4) *Action by zoning administrator* . If a violation is not corrected within a reasonable period as provided in the notification, the zoning administrator shall take appropriate action to correct and abate the violation and to ensure compliance with this chapter. He or she shall take any other action authorized by law to ensure compliance with or to prevent violation of its provisions.
- (c) *Complaints regarding violations* . Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written or oral complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the zoning administrator, who shall record the complaint. The zoning administrator shall promptly cause the complaint to be investigated, and action taken to abate or correct the violation.
- (d) *Inspections to ensure compliance* . Upon presentation of proper credentials, the zoning administrator may enter any building, structure, land, or premises to ensure compliance with the provisions of this chapter.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.3. - Types of violations.

- (a) *Violations, generally* . The following constitute general violations of this chapter:
 - (1) *Compliance failure* . Any failure to comply with a requirement, standard, prohibition, or limitation imposed by this chapter, or the terms or conditions of any permit or other development approval or Certificate of Appropriateness or authorization granted pursuant to this chapter, shall constitute a violation of this chapter.
 - (2) *Noncompliance with permit* . Permits issued on the basis of plans and applications approved by the town council, planning commission, board of zoning appeals, architectural review board, zoning administrator, or other officials or agencies where additional approval is required, authorize the specific use, arrangement, alteration, location, and construction set forth in such permits and development approvals, and no other use, arrangement, alteration, location, or construction.
 - (3) *Unauthorized development* . Development, use, arrangement, enlargement, location, or construction at variance with that authorized shall be deemed violations of this chapter, punishable as provided in this section.
- (b) *Specific violations* . In addition to the offenses listed in Table 78-170.4(a)(5), it shall be a violation of this chapter to do any of the following:
 - (1) *Unauthorized activity* . Construct, reconstruct, alter, demolish, enlarge, change the use of, or occupy any building, structure, or sign, or to engage in development or subdivision of any land in contravention of this chapter, including the conditions and terms of required permits and development approvals.
 - (2) *Unauthorized land disturbance* . Excavate, grade, cut, clear, or undertake any other land disturbing activity contrary to the requirements of this chapter without first obtaining all approvals required by this chapter or other applicable regulations including but not limited to chapters cite
 - (3) *Unauthorized change in nonconformity* . Create, expand, replace, or change any nonconformity except in compliance with this chapter.
 - (4) *Noncompliance with development standards* . Reduce or diminish the lot area, setbacks, buffers, or open space below the minimum required by this chapter.
 - (5) *Unauthorized increase in density/intensity* . Increase the intensity or density of use of any land or structure except in accordance with the requirements of this chapter.
 - (6) *Development without required permit* . Construct, reconstruct, alter, demolish enlarge, change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval, or without complying with the terms and conditions of the permit or approval required to engage in such activity.

- (7) *Failure to comply with terms of approval* . Fail to comply with any terms, conditions, or limitations placed by the town council, planning commission, board of zoning appeals, architectural review board, or zoning administrator upon any development approval, special exception, variance, administrative adjustment, certificate of appropriateness, temporary use permit, temporary mobile structure permit, , site plan, single lot development plan, building location plan, final plan of development, final plat for minor subdivision, preliminary plat for subdivision, final plat for subdivision, boundary line adjustment plat, site grading permit, excavation permit, street name or name change, or other form of authorization.
- (8) *Lapse in sign permit*. Fail to remove any sign installed, created, erected, or maintained in violation of this chapter.
- (9) *Noncompliance with certificate of appropriateness* . Fail to comply with a certificate of appropriateness, which shall include the discontinuance of work or lack of progress toward achieving compliance with a certificate of appropriateness for a period of six months. cite
- (10) *Unauthorized dwellings* . Establish any unauthorized dwelling units as described in section 78-71.1(d)(3). cite

(Ord. No. [17-O-13](#) , 8-8-2017)

Sec. 78-170.4. - Penalties, fines and remedies for violations.

(a) *Penalties, fines and remedies for civil violations* .

- (1) *Penalties and fines* . Except as provided in subsections (2) and (3) below, any person, firm or corporation who as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, who permits, assists in or attempts any violation of this chapter, whether by act or omission, shall be liable for a civil penalty for each individual offense described in Table 78-170.4(a)(5): Summary Table of Common Civil Violations. All civil violations shall be punishable by a fine of \$200.00 for the initial violation and \$500.00 for each additional violation of the same ordinance section.
- (2) *Cumulative penalties* . Each day during which the violation is found to have existed shall constitute a separate offense. However, specific violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.00.
- (3) *Criminal action* . Designation of a particular violation of this chapter for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violations resulting in injury to persons such designation shall preclude the prosecution of violation as a criminal misdemeanor, provided however, that when such civil penalties total \$5,000.00 or more, the violation may be prosecuted as a criminal misdemeanor.
- (4) *Limitations* . No provision in this section shall be construed to allow the imposition of civil penalties (i) for activities related to land development or, (ii) for violation of any provision of this chapter relating to the posting of signs on public property or public rights-of-way.
- (5) *Summary table of common civil violations and fines.*

TABLE 78-170.4(a)(5): SUMMARY OF COMMON CIVIL VIOLATIONS AND PENALTIES		
OFFENSE	Penalty for Initial Summons (in \$)	Penalty for Each Additional Summons (in \$)
Establishing a prohibited use	200.00	500.00

	200.00	500.00
	200.00	500.00
Violation of home based business use-specific standards	200.00	500.00
Failure to properly screen material from public view when and as specifically required through a valid Use Permit	200.00	500.00
Failure to comply with an approved Conditional Use Permit or Special Exception	200.00	500.00
Failure to maintain site in accordance with approved site plan or single lot development plan	200.00	500.00
Failure to provide trash receptacle enclosure as required is this required?	200.00	500.00
Conducting outdoor storage, sales, or display of materials required to be within a completely enclosed building	200.00	500.00
Failure to conform to the provisions of Article IX - Temporary Uses and Structures citation	200.00	500.00
Failure to conform to the provisions of the Chesapeake Bay Regulations	200.00	500.00
Failure to obtain a Floodplain Permit prior to conducting use	200.00	500.00
Failure to comply with performance standards for noise control	200.00	500.00
Encroachment of a structure or building into a required setback or yard	200.00	500.00
Exceeding the height limitation for a building or structure, as set out in various provisions of this Chapter	200.00	500.00
Failure to obtain an approved Special Exception, as set out in various provisions of this Chapter	200.00	500.00
Violation of the single-family dwelling unit occupancy limitations	200.00	500.00
Illegally establishing an accessory dwelling unit, as set out in various provisions of this Chapter	200.00	500.00
Establish an unauthorized dwelling unit	200.00	500.00
The unlawful keeping, harboring or maintaining of livestock	200.00	500.00
The keeping or maintaining of shrubbery, plantings or any structure that creates a visibility problem	200.00	500.00
Displaying merchandise or conducting business between the street line and the building setback area citation	200.00	500.00
Erecting, altering, relocating or displaying a sign on private property without first obtaining a Certificate of Appropriateness	200.00	500.00
Erecting or posting off-site signs on private property	200.00	500.00
	200.00	500.00
Posting strings of lights on signs	200.00	500.00
Failure to meet stated conditions or terms of Certificate of Appropriateness	200.00	500.00

Erecting, reconstructing, demolishing, altering or restoring a building or structure in the Historic Overlay without obtaining a current, valid Certificate of Appropriateness	200.00	500.00
Violation of Fencing Standards	200.00	500.00
Violation of Performance Standards	200.00	500.00
Violation of Standards for Refuse Enclosures	200.00	500.00
Violation of Standards for Roll-Off Dumpsters	200.00	500.00
Failure to park a recreational vehicle in an approved area in a residential district as required	200.00	500.00
Failure to park a commercial vehicle in an approved area in a residential district as required	200.00	500.00
The temporary or permanent occupancy of a recreational vehicle while parked within the limits of the Town cite	200.00	500.00
Any violation related to a sign not requiring a permit (parking on unpaved surface is not prohibited)	200.00	500.00
Creation of excessively large paved surface for front or side yard parking	200.00	500.00
Creation of excessively large impervious surface on a lot improved with a single-family detached dwelling	200.00	500.00
Violation of floodplain overlay district standards (Section 78-60.2.) cite	200.00	500.00
Maintaining or allowing maintenance of donation drop-off box cite	200.00	500.00
Failure to obtain a valid Use Permit for a business within Town limits	200.00	500.00
Failure to obtain a Preliminary Use Permit for construction when required	200.00	500.00
Failure to obtain a Final Use Permit for construction within two years of the issuance of a Preliminary Use Permit for construction	200.00	500.00
Failure to obtain a new Use Permit for any change to an existing business pursuant to Sec. cite of the Town Code	200.00	500.00
Failure to obtain a temporary mobile structure permit cite	200.00	500.00
the parking of junk vehicles within view from public streets	200.00	500.00

(b) *Penalties, fines and remedies for criminal violations.*

(1) *Criminal violations* . The following shall be treated as criminal violations of this chapter:

- a. Conduct of an unpermitted boarding house, unpermitted rooming house, unpermitted inn or unpermitted transient lodging business constitutes a criminal violation of this chapter. Why?

b. Specific violations arising from the same operative set of facts charged for three civil penalties, and persisting after the third civil penalty charge and after the time for its payment, shall constitute criminal violations of this chapter.

- (2) *Penalties and fines* . Any person, firm or corporation who as the owner of any land, building or structure, or the agent having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, knowingly refuses or neglects to comply with any written order issued by the zoning administrator to abate any violation of this chapter shall be guilty of a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$1,000.00.
 - (3) *Remedy* . If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period, punishable by a fine of not less than \$10.00 nor more than \$1,500.00.
 - (4) *Excess criminal penalty for unrelated persons violation*. However, and notwithstanding the above subsections, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to \$2,000.00. Failure to abate the violation within the specified period shall be punishable by a fine of up to \$2,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of up to \$2,500.00. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against the tenant to eliminate an overcrowding condition in accordance with Code of Virginia ch. 13 or ch. 13.2 of tit. 55 (unlawful detainer), as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.
- (c) *Cumulative remedies for violations* . Except as provided in Code of Virginia § 15.2-2209, the remedies provided in this article are cumulative and not exclusive, and the designation of any violation of the provisions of this chapter as a criminal or a civil violation shall not be construed as prohibiting the town from utilizing any remedies in the Code of Virginia or from initiating appropriate injunctive, abatement, or other appropriate actions or proceedings to prevent, correct, restrain, or abate violations.

(Ord. No. [17-O-13](#) , 8-8-2017)

Sec. 78-170.5. - Procedures for civil violations.

- (a) *Notice of violation* . If the zoning administrator, or a designee, determines that a civil violation has occurred, the zoning administrator, or a designee, may cause a notice of the violation to be served by certified mail on any or all persons committing or permitting such violation, in accordance with section 78-170.2(b), notice of violation. This notice of violation will serve as a civil summons or ticket for the scheduled violation.
- (b) *Right to stand trial* . Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance, care of the department of community development prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (c) *Payment of penalty*. The person waiving trial shall abate the violation and pay to the town the civil penalty prior to the date set for trial.
- (d) *Violation to be tried* . If a person charged with and contesting a scheduled violation does not elect to enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. If the violation exceeds the jurisdictional limits of a general district court, the violation shall be tried in the county circuit court. In any trial for a scheduled violation authorized by this section, it shall be the burden of the town to show the liability of the violator by a preponderance of the evidence.
- (e) *Liability* . An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

ARTICLE 7 ZONING AMENDMENTS

Sec. 9-26.ZONING AMENDMENTS

- a. The Town Council may amend this Chapter by amending the text thereof, or by changing any district boundary shown on the Zoning Map as adopted.
- b. An amendment shall be initiated by other than the Town Council in the following manner:
 - 1. By the filing with the Council of a petition of the owners or their agents of the land to be rezoned, which petition shall be sworn to under oath and acknowledged before a Notary Public.
 - 2. Said petition shall be on a standard form entitled "Application for Zoning Map Amendment" and shall be accompanied by a fee of five hundred (\$500.00).
- c. A public hearing shall be held by the Planning Commission on any such petition, as provided by state law. The Planning Commission shall report to the Council its recommendations with respect to the proposed amendment stating its reasons either for or against said amendment.
- d. A public hearing shall be held by the Town Council on any such petition, as provided by state law.
- e. Upon denial by the Council of any petition for rezoning of property filed pursuant to the above procedure, no further petition concerning any or all of the same property for amendment to the same zoning category as applied for in the petition denied shall be filed by the previous applicant within nine months of such denial.

ARTICLE x ZONING APPEALS

Sec. 9-27.BOARD OF ZONING APPEALS

The Board of Zoning Appeals (BZA) is established to vary specific terms of the Ordinance to the ends that the intent of the provisions may be effected, and to perform such other duties as are set forth in Article 8, Chapter II, Title 15.1 of the Code of Virginia, and those duties as set forth in the provisions of this Ordinance as it exists and as it may be amended.

The BZA shall consist of five (5) or seven (7) residents of the Town, and the members shall be appointed by the Circuit Court of Fairfax County. Their terms of office shall be for five years, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the BZA shall notify the court at least thirty days in advance of the expiration of any terms 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, and 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 local planning commission.

The Board shall keep a full public record of its proceedings and shall submit a report of its activities to the Town Council at least once each year. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board.

- a. Application. An application for a variance or other request shall be filed with the secretary of the BZA on a form designated by the secretary. Unless waived by the BZA, the application shall contain at least (1) the name and address of the applicant, (2) the location and owner of the property, (3) a plat of the property, (4) a statement of the section of the Ordinance for which a variance is requested, (5) a statement of the justification for the requested variance.

Article XVII. - ENFORCEMENT, VIOLATIONS AND REMEDIES

Sec. 78-170. - Enforcement, violations and remedies.

The following sections contain provisions for enforcement of zoning regulations, remedies for violations and penalties for unresolved violations.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.1. - Generally.

- (a) *Purpose and intent* . This section establishes procedures through which the town seeks to ensure compliance with the provisions of this chapter and obtain corrections for chapter violations. It also sets forth the remedies and penalties that apply to violations of this chapter. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.
- (b) *Compliance required* . Compliance with all provisions of this chapter is required. It shall be unlawful for any person to construct, reconstruct, alter, demolish, change the use of, or occupy any land, building, or other structure within the town in violation of this chapter.
- (c) *Permits required* . All persons, firms, and corporations shall obtain all permits required by the town prior to commencing any use or building within the town.
- (d) *Responsible persons* . Any person who violates this chapter shall be subject to the remedies and penalties set forth in this article.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.2. - Enforcement, generally.

- (a) *Responsibility for enforcement of zoning provisions* . The zoning administrator shall enforce this chapter. The zoning administrator shall be provided with the assistance of such other persons as the Town Council may direct.
- (b) *Notice of violations* . When the zoning administrator finds that any activity, building, structure, or land is in violation of this chapter, the zoning administrator shall notify, in writing, the person violating this chapter, as follows:
 - (1) *Content of notice* . Such notification shall indicate the nature of the violation, order the necessary action to abate the violation, give a deadline for correcting the violation, and include an indication of the applicable appeal fee and a reference to where other information regarding the appeal process may be obtained regarding the filing of the appeal to the board of zoning appeals.
 - (2) *Fee* . The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs.
 - (3) *Limitation on penalty during appeal process* . Any civil penalty for appealed violations of the zoning ordinance shall not accrue or be assessed during the pendency of the period in which to file an appeal to the board of zoning appeals.
 - (4) *Action by zoning administrator* . If a violation is not corrected within a reasonable period as provided in the notification, the zoning administrator shall take appropriate action to correct and abate the violation and to ensure compliance with this chapter. He or she shall take any other action authorized by law to ensure compliance with or to prevent violation of its provisions.
- (c) *Complaints regarding violations* . Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written or oral complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the zoning administrator, who shall record the complaint. The zoning administrator shall promptly cause the complaint to be investigated, and action taken to abate or correct the violation.

- (d) *Inspections to ensure compliance* . Upon presentation of proper credentials, the zoning administrator may enter any building, structure, land, or premises to ensure compliance with the provisions of this chapter.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.3. - Types of violations.

(a) *Violations, generally* . The following constitute general violations of this chapter:

- (1) *Compliance failure* . Any failure to comply with a requirement, standard, prohibition, or limitation imposed by this chapter, or the terms or conditions of any permit or other development approval or [Certificate of Appropriateness](#) or authorization granted pursuant to this chapter, shall constitute a violation of this chapter.
- (2) *Noncompliance with permit* . Permits issued on the basis of plans and applications approved by the town council, planning commission, board of zoning appeals, architectural review board, zoning administrator, or other officials or agencies where additional approval is required, authorize the [specific](#) use, arrangement, alteration, location, and construction set forth in such permits and development approvals, and no other use, arrangement, alteration, location, or construction.
- (3) *Unauthorized development* . Development, use, arrangement, [enlargement](#), location, or construction at variance with that authorized shall be deemed violations of this chapter, punishable as provided in this section.

(b) *Specific violations* . In addition to the offenses listed in Table 78-170.4(a)(5), it shall be a violation of this chapter to do any of the following:

- (1) *Unauthorized activity* . Construct, reconstruct, alter, demolish, [enlarge](#), change the use of, or occupy any building, structure, or sign, or to engage in development or subdivision of any land in contravention of this chapter, including the conditions and terms of required permits and development approvals.
- (2) *Unauthorized land disturbance* . Excavate, grade, cut, clear, or undertake any other land disturbing activity contrary to the requirements of this chapter without first obtaining all approvals required by this chapter or other applicable regulations [including but not limited to chapters cite-](#)
- (3) *Unauthorized change in nonconformity* . Create, expand, replace, or change any nonconformity except in compliance with this chapter.
- (4) *Noncompliance with development standards* . Reduce or diminish the lot area, setbacks, buffers, or open space below the minimum required by this chapter.
- (5) *Unauthorized increase in density/intensity* . Increase the intensity or density of use of any land or structure except in accordance with the requirements of this chapter.
- (6) *Development without required permit* . Construct, reconstruct, alter, demolish [enlarge](#), change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval, or without complying with the terms and conditions of the permit or approval required to engage in such activity.
- (7) *Failure to comply with terms of approval* . Fail to comply with any terms, conditions, or limitations placed by the town council, planning commission, board of zoning appeals, architectural review board, or zoning administrator upon any development approval, special exception, variance, administrative adjustment, certificate of appropriateness, temporary use permit, [temporary mobile structure permit, zoning inspection permit, zoning appropriateness permit](#), site plan, single lot development plan, building location plan, final plan of development, final plat for minor subdivision, preliminary plat for subdivision, final plat for subdivision, [boundary line adjustment plat](#), site grading permit, excavation permit, street name or name change, or other form of authorization.

- (8) *Lapse in sign permit*. Fail to remove any sign installed, created, erected, or maintained in violation of this chapter, ~~or for which the~~.
- (9) *Noncompliance with certificate of appropriateness*. Fail to comply with a certificate of appropriateness, which shall include the discontinuance of work or ~~lack of progress toward achieving compliance with a certificate of appropriateness for a period of six months~~. cite
- (10) *Unauthorized dwellings*. Establish any unauthorized dwelling units as described in section 78-71.1(d)(3). cite

Formatted: Underline

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.4. - Penalties, fines and remedies for violations.

(a) *Penalties, fines and remedies for civil violations*.

- (1) *Penalties and fines*. Except as provided in subsections (2) and (3) below, any person, firm or corporation who as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, who permits, assists in or attempts any violation of this chapter, whether by act or omission, shall be liable for a civil penalty for each individual offense described in Table 78-170.4(a)(5): Summary Table of Common Civil Violations. All civil violations shall be punishable by a fine of \$200.00 for the initial violation and \$500.00 for each additional violation of the same ordinance section.
- (2) *Cumulative penalties*. Each day during which the violation is found to have existed shall constitute a separate offense. However, specific violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.00.
- (3) *Criminal action*. Designation of a particular violation of this chapter for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violations resulting in injury to persons such designation shall preclude the prosecution of violation as a criminal misdemeanor, provided however, that when such civil penalties total \$5,000.00 or more, the violation may be prosecuted as a criminal misdemeanor.
- (4) *Limitations*. No provision in this section shall be construed to allow the imposition of civil penalties (i) for activities related to land development or, (ii) for violation of any provision of this chapter relating to the posting of signs on public property or public rights-of-way.
- (5) *Summary table of common civil violations and fines.*

TABLE 78-170.4(a)(5): SUMMARY OF COMMON CIVIL VIOLATIONS AND PENALTIES		
OFFENSE	Penalty for Initial Summons (in \$)	Penalty for Each Additional Summons (in \$)
Establishing a prohibited use (except the conduct of an un-permitted boarding house, un-permitted rooming house, un-permitted inn, or of an un-permitted transient lodging business)	200.00	500.00
Failure to obtain Zoning Appropriateness Permit	200.00	500.00
Failure to obtain Zoning Inspection Permit	200.00	500.00
Violation of home based business use-specific standards	200.00	500.00

Failure to properly screen material from public view <u>when and as specifically</u> as required <u>through a valid Use Permit</u>	200.00	500.00
Failure to comply with an approved Conditional Use Permit or Special Exception	200.00	500.00
Failure to maintain site in accordance with approved site plan or single lot development plan	200.00	500.00
Failure to provide trash receptacle enclosure as required <u>is this required?</u>	200.00	500.00
Conducting outdoor storage, sales, or display of materials required to be within a completely enclosed building	200.00	500.00
Failure to conform to the provisions of Article IX - Temporary Uses and Structures <u>citation</u>	200.00	500.00
Failure to conform to the provisions of the Chesapeake Bay Regulations	200.00	500.00
Failure to obtain a Floodplain Permit prior to conducting use	200.00	500.00
Failure to comply with performance standards for noise control	200.00	500.00
Encroachment of a structure or building into a required setback or yard	200.00	500.00
Exceeding the height limitation for a building or structure, as set out in various provisions of this Chapter	200.00	500.00
Failure to obtain an approved Special Exception, as set out in various provisions of this Chapter	200.00	500.00
Violation of the single-family dwelling unit occupancy limitations	200.00	500.00
Illegally establishing an accessory dwelling unit, as set out in various provisions of this Chapter	200.00	500.00
Establish an unauthorized dwelling unit	200.00	500.00
The unlawful keeping, harboring or maintaining of livestock	200.00	500.00
The keeping or maintaining of shrubbery, plantings or any structure that creates a visibility problem <u>citation</u>	200.00	500.00
Displaying merchandise or conducting business between the street line and the building setback area <u>citation</u>	200.00	500.00
Erecting, altering, relocating or displaying a sign on private property without first obtaining a <u>Certificate of Appropriateness</u> permit	200.00	500.00
Erecting or posting off-site signs on private property	200.00	500.00
Erecting moving signs, such as pennants, flags, and the like on private property	200.00	500.00
Posting strings of lights in windows or on buildings <u>on signs</u>	200.00	500.00
Failure to meet stated conditions <u>or terms</u> of <u>Certificate of Appropriateness</u> <u>Sign Permit</u>	200.00	500.00
Erecting, reconstructing, demolishing, altering or restoring a building or structure in the a Historic Overlay Heritage Preservation District without obtaining a current, valid Certificate of Appropriateness	200.00	500.00
Failure to meet terms of certificate of appropriateness	200.00	500.00

Violation of Fencing Standards	200.00	500.00
Violation of Performance Standards	200.00	500.00
Violation of Standards for Refuse Enclosures	200.00	500.00
Violation of Standards for Roll-Off Dumpsters	200.00	500.00
Failure to park a recreational vehicle in an approved area in a residential district as required	200.00	500.00
Failure to park a commercial vehicle in an approved area in a residential district as required	200.00	500.00
The temporary or permanent occupancy of a recreational vehicle while parked within the limits of the Town cite	200.00	500.00
Any violation related to a sign not requiring a permit	200.00	500.00
(Parking on unpaved surface-parking on unpaved surface is not prohibited)	200.00	500.00
Creation of excessively large paved surface for front or side yard parking	200.00	500.00
Creation of excessively large impervious surface on a lot improved with a single-family detached dwelling	200.00	500.00
Violation of floodplain overlay district standards (Section 78-60.2.) cite	200.00	500.00
Maintaining or allowing maintenance of donation drop-off box cite	200.00	500.00
Failure to obtain a valid Use Permit for a business within Town limits	200.00	500.00
Failure to obtain a Preliminary Use Permit for construction when required	200.00	500.00
Failure to obtain a Final Use Permit for construction within two years of the issuance of a Preliminary Use Permit for construction	200.00	500.00
Failure to obtain a new Use Permit for any change to an existing business pursuant to Sec. cite of the Town Code	200.00	500.00
Failure to obtain a temporary mobile structure permit cite	200.00	500.00
the parking of junk vehicles within view from public streets	200.00	500.00

(b) *Penalties, fines and remedies for criminal violations.*

(1) *Criminal violations* . The following shall be treated as criminal violations of this chapter:

- a. Conduct of an unpermitted boarding house, unpermitted rooming house, unpermitted inn or unpermitted transient lodging business constitutes a criminal violation of this chapter. [Why?](#)
- b. Specific violations arising from the same operative set of facts charged for three civil penalties, and persisting after the third civil penalty charge and after the time for its payment, shall constitute criminal violations of this chapter.

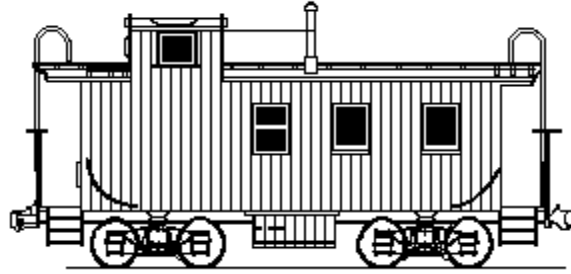
(2) *Penalties and fines* . Any person, firm or corporation who as the owner of any land, building or structure, or the agent having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, knowingly refuses or neglects to comply with any written order issued by the zoning administrator to abate any violation of this chapter shall be guilty of a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

- (3) *Remedy* . If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period, punishable by a fine of not less than \$10.00 nor more than \$1,500.00.
- (4) *Excess criminal penalty for unrelated persons violation* . However, and notwithstanding the above subsections, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to \$2,000.00. Failure to abate the violation within the specified period shall be punishable by a fine of up to \$2,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of up to \$2,500.00. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against the tenant to eliminate an overcrowding condition in accordance with Code of Virginia ch. 13 or ch. 13.2 of tit. 55 (unlawful detainer), as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.
- (c) *Cumulative remedies for violations* . Except as provided in Code of Virginia § 15.2-2209, the remedies provided in this article are cumulative and not exclusive, and the designation of any violation of the provisions of this chapter as a criminal or a civil violation shall not be construed as prohibiting the town from utilizing any remedies in the Code of Virginia or from initiating appropriate injunctive, abatement, or other appropriate actions or proceedings to prevent, correct, restrain, or abate violations.

(Ord. No. [17-O-13](#), 8-8-2017)

Sec. 78-170.5. - Procedures for civil violations.

- (a) *Notice of violation* . If the zoning administrator, or a designee, determines that a civil violation has occurred, the zoning administrator, or a designee, may cause a notice of the violation to be served by certified mail on any or all persons committing or permitting such violation, in accordance with section 78-170.2(b), notice of violation. This notice of violation will serve as a civil summons or ticket for the scheduled violation.
- (b) *Right to stand trial* . Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance, care of the department of community development prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (c) *Payment of penalty* . The person waiving trial shall abate the violation and pay to the town the civil penalty prior to the date set for trial.
- (d) *Violation to be tried* . If a person charged with and contesting a scheduled violation does not elect to enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. If the violation exceeds the jurisdictional limits of a general district court, the violation shall be tried in the county circuit court. In any trial for a scheduled violation authorized by this section, it shall be the burden of the town to show the liability of the violator by a preponderance of the evidence.
- (e) *Liability* . An admission of liability or finding of liability shall not be a criminal conviction for any purpose.



**CLIFTON TOWN PLANNING COMMISSION
TUESDAY, FEBRUARY 28, 2023, 7:30 PM
ACACIA LODGE
7135 MAIN STREET
CLIFTON, VA 20124**

Order of Business:

1. Comprehensive Town Plan – Update.
 - a. Presentation by Sam Kinzer.

2. Zoning Ordinance:
 - a. Proposed Re-ordering of Chapter 9.
 - b. Proposed Addition of Civil Penalties Section.

3. Approve January 31, 2023 Meeting Minutes.

4. Adjournment.