



Zoning Ordinance Critique

October 2023

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Introduction and Overview

1. Background Overview

The Leesburg Zoning Ordinance establishes the rules for land use and development and works in tandem with other Town ordinances to regulate and maintain desired character and guide growth to appropriate areas. The Zoning Ordinance was last updated about 15 years ago, and since then, shifts in policy direction and market conditions warrant additional updates to modernize the Town’s approach to land use and development. Additionally, in March 2022, the Town adopted a new Town Plan titled *Legacy Leesburg*, which provides policy direction for the Town over the next 20 years. The Zoning Ordinance will reflect that guidance by implementing regulations that create a strong sense of place, respect community character, and deliver high-quality development through an Ordinance that is predictable and fair.

The Town is working with [Kendig Keast Collaborative](#) (KKC), a national land use planning and zoning firm, to lead the Zoning Ordinance update. They are joined by White and Smith, Roth Jackson, and Mary Madden for project support. The project is expected to take just under two years to complete, with adoption of a new Zoning Ordinance by early summer 2025. This document, the Zoning Ordinance Critique, is intended to provide a foundation and roadmap by which to guide policy and technical direction for updating the regulations. An Annotated Outline accompanies this document and demonstrates how the new Zoning Ordinance will be structured and organized based on the recommendations in this report.

The project is beginning with a number of worthy goals. They are:

- Perform a Code Audit (this document) with an eye toward internal consistency, zoning best practices, changes to parking regulation, and legal soundness
- Improve the structure and format, including graphics, of the Zoning Ordinance
- Implement relevant policies of the Legacy Leesburg Town Plan
- Revise the Crescent Design District
- Incorporate a Staff “punch list” of changes
- Engage the public throughout the project

It is important before proceeding to clearly explain what a Zoning Ordinance does and does not address. As a result, all involved can have confidence that this project will have realistic outcomes and that the Zoning Ordinance is not a “silver bullet” that will fix all of the Town’s issues.

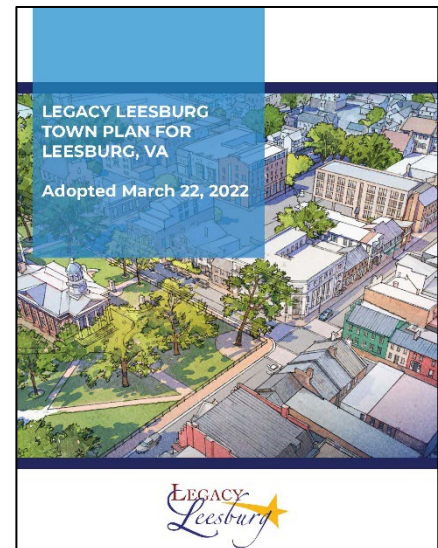


Figure 1 The Legacy Leesburg Comprehensive Plan

Here are the topics that a Zoning Ordinance *can* address:

- Zoning Districts, Land use, Building Types
- Landscaping, Buffering, Hardscaping
- Parking, Loading, Stacking
- Signs
- Review Bodies and Procedures
- Nonconformities
- Enforcement, Violations, Penalties
- Definitions

The two fundamental parts of a Zoning Ordinance are the text and the accompanying Zoning Map. The text says what the rules are, and the map shows where in the Town those rules apply. Both have the force of law, unlike the Comprehensive Plan, which is a policy document describing how the Town would like to grow over the next few decades. Further, a Zoning Ordinance addresses land uses that may or may not take place on private property, how those land uses impact their neighbors and the public realm (the street, sidewalk, public parks, etc.), and how community character is created or maintained.

Just as it is important to know what a Zoning Ordinance can control, it is also important to know what topics are beyond the scope of a Zoning Ordinance. For example, a Zoning Ordinance is not:

- **Property Tax Policy.** It will not raise or lower the Town’s property tax rate.
- **Annexation Policy.** Annexation of land is more closely related to a Comprehensive Plan.
- **Capital Improvements Program.** It does not set policy for the extension or improvement of public infrastructure.
- **Building Code.** This regulates how structures are built to ensure their future structural soundness and safety.

R-2 Uses			
Use		Use Standards	Definition
Commercial Uses			
Bed and Breakfast Inn	S		Sec. 18.1.16
Child Care Center	S		Sec. 18.1.29
Home Occupation	P		Sec. 18.1.80
Recreation Facility	S	Sec. 9.3.21	Sec. 18.1.156
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.43.1
Temporary Mobile Land-Based Telecommunications Testing Facility	P	Sec. 9.3.26.E	
Institutional and Community Service Uses			
Cemetery	S		Sec. 18.1.28
Fire and/or Rescue Facility	P		Sec. 18.1.64
Library	P		Sec. 18.1.89

Figure 3 The Land Use Table Shows What Land Uses are allows in which districts

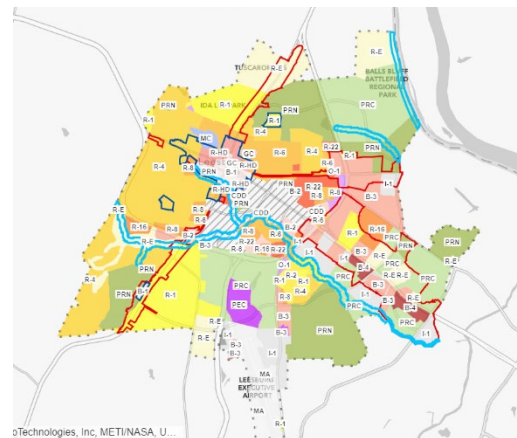


Figure 2 The Leesburg Zoning Map

- **Construction Standards.** It does not specify how thick subbase, base, and paved surfaces should be, how curb and gutter is built, etc.
- **Unified Development Code.** It does not incorporate all development-related laws. Subdivision standards, for instance

2. Kick-Off Meetings

The Town hosted a series of kick-off meetings July 19-20, 2023, where stakeholders were invited to participate in one-hour focus group meetings to provide feedback on the existing Zoning Ordinance and to identify key areas for improvement. The consultant team also met with the Board of Architectural Review (BAR), Planning Commission (PC), the Staff Technical Team (STT), and Town leadership. The Planning Commission will also function as the Steering Committee for this project.

The project team met with the following additional stakeholder groups during the kickoff trip:

- Developers and builders
- Crescent District representatives
- Engineers
- Land Use Attorneys

Following the kick-off meetings, Town staff held a series of focus groups interviews to gauge participants' interest in the project. While individuals in these groups may not have day-to-day experience with the Zoning Ordinance, their experience in the community and with the built environment provides key input to improving the Town's development regulations and processes. Town staff met with the following groups:

- Business Owners
- Civic Groups
- Industry Representatives
- Preservationists
- Realtors

Below are a consolidated set of "high points" from the Stakeholder Groups that the consultant team met with earlier on in the project.

1. Zoning and Development Process Complexity:

- Concerns about the complexity and length of the development process.
- Concerns about excessive documentation, number of rounds of submissions, and the time it takes to navigate the process.
- Desire for a more streamlined and efficient process to attract investment and development.

2. Density and Urban Development:

- Desire for more density in certain areas, especially urban areas, to promote efficient land use.
- Desire for more creative and flexible provisions that accommodate innovative projects.

3. Affordable Housing and Housing Shortage:

- Concerns about the need for affordable housing and the challenges in achieving it under existing regulations.
- Discussion of density bonuses and other incentives to encourage affordable housing development.
- Concerns about housing shortages and waiting lists for affordable housing units.

4. Parking Regulations:

- Critiques of parking ratios being too high and not aligning with actual needs.
- Suggestions for lower parking requirements, especially for attainable or affordable housing.
- Consideration of alternative solutions such as parking garages and payment-in-lieu options.

5. Historic District Concerns:

- Discussion of challenges related to applying suburban standards to the historic district and the need for tailored regulations.
- Discussion about preserving trees, addressing ADA compliance, and maintaining architectural integrity in historic areas.

6. Flexibility and Alternative Compliance:

- More flexibility in the regulations is needed, focusing on outcomes rather than rigid requirements.
- Consideration of alternative compliance options to encourage innovative development while meeting overall goals.

7. Process and Communication:

- Concerns about lack of coordination and communication between different departments and regulatory bodies.
- Suggestions were given to improve the review process, provide clearer provisions, and reduce redundant comments.

8. Environmental Considerations:

- Discussions about stormwater management, green infrastructure, and tree preservation.
- Interest in incentivizing sustainable and environmentally friendly development practices.

9. Proffers:

- Issues with aligning proffers with evolving zoning regulations and concerns about proffer amendments.
- Suggestions for a more efficient process for modifying proffers.

Similarly, below is a summary of the comments and concerns from the focus group attendees, whom Town staff interviewed.

1. Downtown Redevelopment:

- Concerns about the direction of the historic district and its purpose.
- Thoughts on how to balance the mix of housing, office spaces, and retail in the downtown area.

- How to attract visitors from outlets to the downtown area.

2. Infrastructure and Accessibility:

- Issues with traffic and pedestrian safety.
- The need for better signage.
- Connecting different areas of the town, especially after bypass construction.
- Parking problems and potential solutions.

3. Zoning and Regulations:

- Challenges and frustrations with zoning interpretations and changes.
- The need for greater clarity and simplicity in regulations.
- The impact of zoning on various types of businesses and developments.

4. Sustainability and Environment:

- Concerns about environmental impacts and stormwater management.
- The desire to improve sustainability through building and landscaping standards.

5. Housing and Affordability:

- Discussions about affordable housing and deed restrictions.
- The role of zoning in addressing housing issues.
- The possibility of density bonuses for affordable housing.

6. Historic District Management:

- Maintaining the historic character of the district.
- Issues related to murals, public art, and building design within the district.
- Balancing regulations for contributing and non-contributing structures.

7. Development Process:

- Frustrations with the time and complexity of the development process.
- The need for a more streamlined and collaborative process.
- Questions about the political will to change zoning codes and processes.

8. Market Trends:

- Shifts in demand for different types of commercial spaces, like flex, office, and experiential retail.
- The need for flexible zoning to accommodate market changes.

9. Community Engagement and Education:

- Public understanding of zoning and its impact.
- The role of the council and the need for education on zoning issues.

10. Vision and Growth:

- The importance of having a shared vision for the town's growth.
- Potential areas for future growth, like the Crescent District.

Some commonalities both groups expressed include:

- The complexity and length of the development process and the Zoning Ordinance itself.
- The need for more a streamlined and efficient process to attract investment and development.
- Concerns about the need for affordable housing.
- Balancing reduced parking ratios with the need continue to accommodate vehicles.
- Concerns related to applying regulations in historic districts, including tailored regulations and maintaining architectural integrity.

3. Project Website

The Town has established a project website for the Zoning Ordinance update where users may view upcoming meetings, view project deliverables, and stay up-to-date on key milestones.

The website is <https://online.encodeplus.com/regs/leesburg-va/> and will be populated with more information as the project progresses.

4. Iterative Drafting

Based on the recommendations in this Critique, the project team will begin drafting updates to the Zoning Ordinance. The drafting process will be divided into two modules, generally splitting the drafting focused on zoning uses and development regulations into the first module, and the second module focused on procedures and review bodies. Each installment will be first reviewed by staff and the Steering Committee (Planning Commission), followed by a revised version for presentation and to solicit feedback from the general public.



Figure 4 The Project Schedule

Zoning Ordinance Diagnostic

The purpose of the remainder of this document is to report the results of the Kendig Keast Collaborative review of the Town's Zoning Ordinance. This analysis includes several key recommendations that KKC believes the Town should address during the Zoning Ordinance update. The recommendations are based on our own review and interpretation of the current regulations, written and verbal information and feedback provided by staff, and input from various stakeholders during the kickoff meetings. No part of this analysis is intended to disparage the original drafters of the regulations, Town staff, or the Town's appointed or elected officials. The recommendations are intended to provide staff with considerations for alternative approaches and improvements to the Zoning Ordinance from an unbiased outside perspective.

The critique and recommendations are organized into six themes:

1. Align the Zoning Ordinance with *Legacy Leesburg*
2. Restructure the Zoning Districts
3. Improve the Land Use Regulations
4. Update Development Standards
5. Revise Review Procedures
6. Create a More User-Friendly Document

1. Align the Zoning Ordinance with Legacy Leesburg

One of the primary goals of the Zoning Ordinance update project is to align the ordinance with the Town's recently adopted comprehensive plan, *Legacy Leesburg* (2022). The Character Areas established in the Plan are shown below followed by a map of Area Based Land Initiatives. These maps set the stage for the proposed reworked set of zoning districts and where certain options within them may apply.

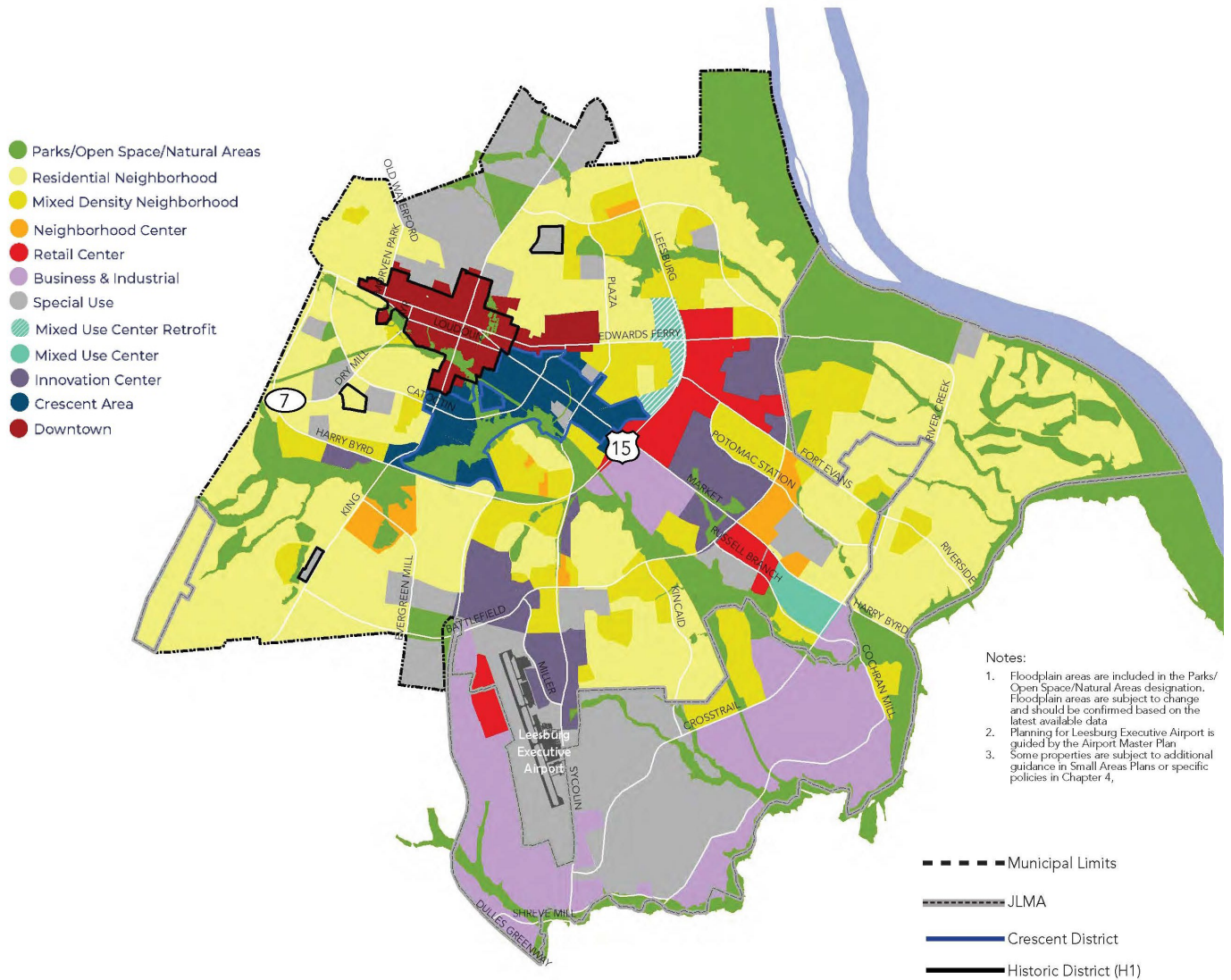


Figure 5 The Character Area Map in Legacy Leesburg

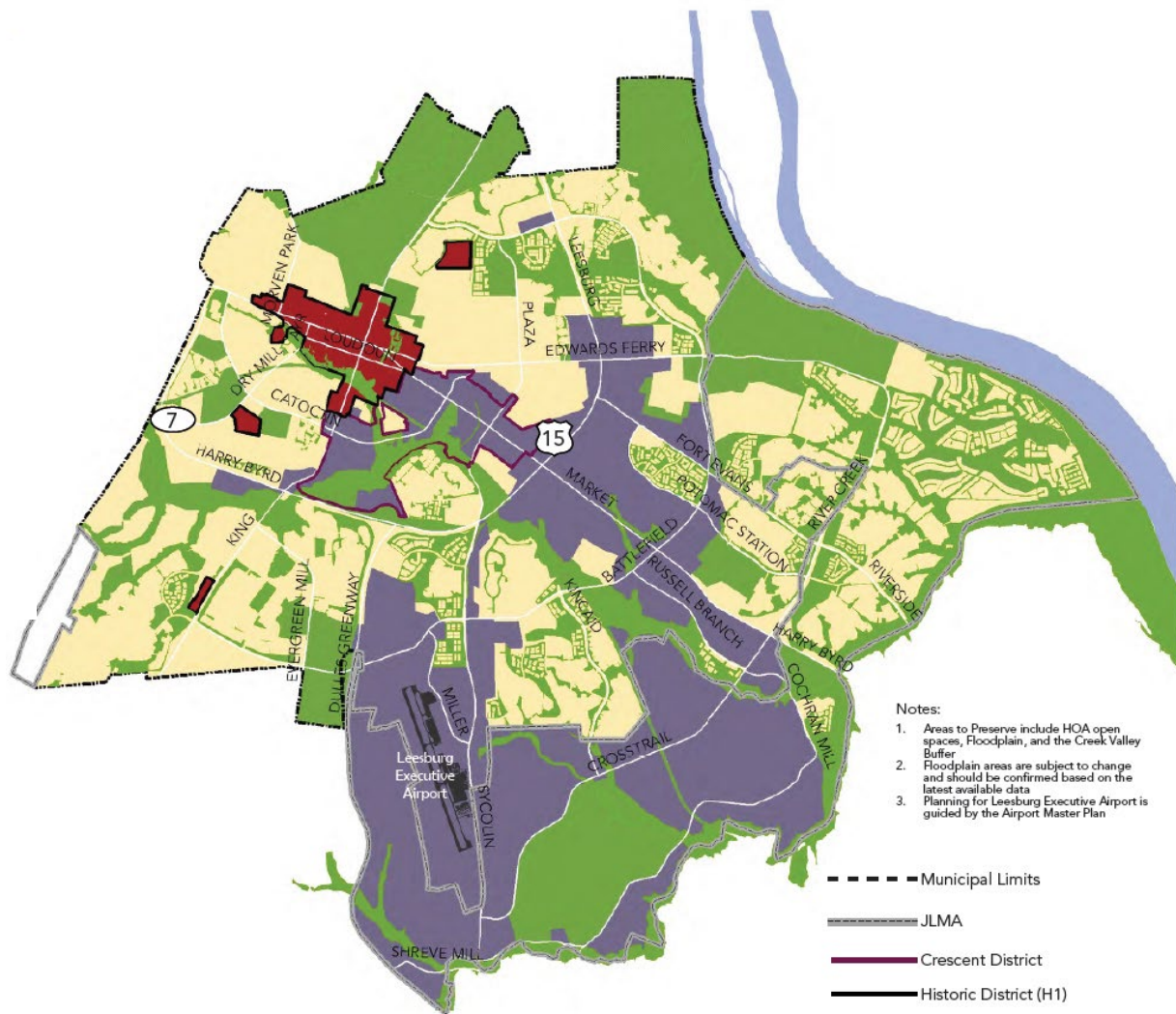


Figure 6 Area Based Land Initiatives in Legacy Leesburg

Legacy Leesburg provides background information about the Town as it is today and how it wants to grow in the future. Plan chapters address specific topic areas relevant to the community’s vision for growth, development, and redevelopment, including but not limited to, character and authenticity, economic development, and transportation. The table below highlights policies from the Plan and proposes how the principles, goals, and strategies outlined in the Plan will be implemented through the Zoning Ordinance update.

LEGACY LEESBURG POLICIES		
Goal	Strategy	Recommended Approach for Addressing in ZO
Principle: Town Character & Authenticity		
Put the Building Blocks of Authenticity and Character to Work	Emphasize Historic Preservation	<p>Consider new guidelines or standards to address how to ensure compatibility of noncontributing neighborhoods and structures with the character of the historic districts;</p> <p>Identified historic corridors are significant and development in those corridors should continue to be subject to careful design review in accordance with the adopted Gateway Guidelines;</p> <p>The Town should make additions to the H-1 Old and Historic District to protect heritage Resources, and consider the updated architectural survey of the district once complete.</p>
	Identify Preserve and Manage Heritage Trees	Revise tree preservation standards to address conservation and replacement, and to incorporate a fee-in-lieu option. Utilize recommendations of the working group, which meets at the end of the year. Consider whether these standards should be included in the Zoning Ordinance, or moved to the DCSM.
	Retrofit Major Auto-Oriented Corridors as Walkable, People-Oriented Places	Provide standards that require, at minimum, incremental transitions from shopping centers with an excess of surface parking to mixed use activity centers. Consider these suburban corridors (East Market St. east of the Old and Historic District, Catocin Circle, South King Street, and Edwards Ferry Road east of Heritage Way) as a base zoning district or an overlay that incorporates density bonuses for improved site elements such as wider sidewalks, street trees, interior walkways, and other strategies that create mixed use activity centers.

LEGACY LEESBURG POLICIES

Goal	Strategy	Recommended Approach for Addressing in ZO
Put the Building Blocks of Authenticity and Character to Work (continued)	Enhance Public Streets	<p>Implement the Town’s Streetscape Plan by transforming public streets (as noted in the document) to Complete Streets by incorporating standards that require cross-sections that provide space for multiple forms of transportation, and that create sidewalk spaces with shade and amenities. Consider whether these standards should be part of the Zoning Ordinance or DCSM.</p> <p>In the Crescent District, amend development standards to create a safer pedestrian environment. For instance, ensure sight distance issues are addressed and on-street parking is counted.</p>
	Land Use Patterns	<p>Tailor development standards to reflect the existing pattern of development to preserve the character of the Old and Historic District, and to ensure infill development and new development is compatible. Ensure a mix of uses is permitted within the district, with more focus on the standards that impact the character of development.</p> <p>Permit neighborhood commercial uses within residential neighborhoods to allow for small-scale, commercial amenities within primarily residential neighborhoods where housing variety already exists.</p>
	Development Intensities	<p>Allow community serving nonresidential uses, including:</p> <ul style="list-style-type: none"> • Ensure accessory dwelling units (e.g. apartments over garages, small backyard buildings, apartments created within existing houses) are appropriately allowed without changing these newer provisions too much • Small lot or “cottage court” developments, which should be accompanied by incentives to encourage more of this development type. • Smaller minimum lot sizes. (Update the SLDR to remove the required modification process for lots that do not directly front on a street.)
	Building Scale and Massing	<p>These topics should be context sensitive. For instance, amend the development standards for</p>

LEGACY LEESBURG POLICIES		
Goal	Strategy	Recommended Approach for Addressing in ZO
		North Street / Marshall and East Falls Church to reflect the scale of existing development.
	Lot Size and Building Placement	<p>In the Old and Historic District and Crescent District, incorporate standards for larger buildings to be designed to give the appearance of several small buildings consistent with historic development patterns.</p> <p>No minimum lot sizes, instead relying on maximum density so that a developer can be free to have variety in housing types and lot sizes.</p> <p>Review setbacks to ensure that, where appropriate, buildings, or percentages of building frontages, are at the sidewalk. Where there is an established pattern of development, consider modeling those setbacks.</p>
	Provide Appropriate Parking	<p>Environmentally responsible techniques such as permeable pavement and bioretention should be considered for overflow parking where possible. These strategies should be coordinated with the ongoing update to the stormwater management regulations in the Town Code;</p> <p>Right-size parking ratios based on national best practices. Consider eliminating off-street parking minimums for some uses or contexts. Utilize a consistent unit of measurement for parking standards (i.e., square feet).</p>
Principle: Dollars and Sense		
Manage growth & change to preserve & enhance community	Development Compatibility and Site Transitions	Require transition standards between differing adjacent uses that may have a negative impact on one another. Consider bufferyards, increased setbacks, stepped down building heights, reduced building sizes for part of all of a larger building, and other transition standards.

LEGACY LEESBURG POLICIES		
Goal	Strategy	Recommended Approach for Addressing in ZO
Principle: Places to Live- Enhancing and Improving Home Choices		
Enhance Existing Neighborhoods	Ensure that Nearby Development Reinforces the Character & Quality of Existing Neighborhoods	Require walkway and biking connections (note that these should be included as part of the SLDR update); Program uses, densities, and form like existing development
	Promote a Diverse Range of New Housing Options (Based on Income, Age, Household Types and Sizes, Etc.)	In Areas to Transform, expand permitted single family housing types to include small cottage-style housing or zero lot line housing, and add Single family attached housing types such as duplex, tri-plex and quadplex units. In these specific areas, require a minimum number of housing types and a maximum percentage for a singular housing type.
	Introduce Expanded Opportunities for Residents to Age in Place	Retain recently established uses including independent and assisted living facilities, units focused on older residents, units for residents with special needs, and senior housing into new development proposals; Add more options for residents to age in place including accessory dwelling units and build-to-rent units.
	Consider Manufactured Housing in Addressing Affordable Housing Needs	Manufactured housing can also be considered in other locations in the Town where it addresses affordability and other applicable land use strategies of the Town Plan. In particular, the Town could consider the use of manufactured housing as accessory dwellings in appropriate areas where used to meet affordable housing needs. This housing type should be permitted (as a new housing type) in areas to preserve the character, in accordance with recent state code provisions.
Principle: Moving Around Town		
Improve the Resiliency of the Transportation System	Increase the Availability of Charging Stations for Cars	Add a requirement for or incentivize charging stations for electric vehicles in commercial and industrial developments, which would be considered an accessory use and would county towards required parking minimums.

LEGACY LEESBURG POLICIES		
Goal	Strategy	Recommended Approach for Addressing in ZO
Provide Attractive and Functional Parking in the Downtown	Work With Owners of Alternative Parking	Ensure that shared or structured parking is allowed and permitted downtown. Continue the active design requirement downtown, which ensures that parking structures are required to have active ground floors with retail or office uses. Parking structures in other parts of the Town may be allowed to be “stand alone”.
Principle: All Things Green		
Minimize the Impact of New Development on the Environment	Preserve & Protect the Environment by Encouraging Good Site Design Practices	Incorporate tree preservation standards and penalties for clear-cutting (in DCSM, not Zoning Ordinance); Incentivize stormwater management best practices including the use of swales and permeable paving (in DCSM); Minimize the amount of paved surfaces by maximizing building setbacks where context-appropriate, or incorporating maximum pervious cover standards; and Incentivize the preservation of natural features such as woodlands, wetlands, and slopes by providing density bonuses.
	Minimize outdoor Commercial Lighting Consistent with Public Safety Requirements to Reduce Glare and Impacts on the Night Sky	Require cutoff, shielded lighting in all commercial projects to prevent glare and create a dark sky; Implement strategies and incentives to encourage CPTED in lighting and other part of site design, while being sensitive to over-lit areas that do not comply with dark sky principles.

LEGACY LEESBURG POLICIES		
Goal	Strategy	Recommended Approach for Addressing in ZO
Reduce Energy Use	Use Site Design Techniques to Achieve Energy Efficiency Consistent with Other Plan Policies	<p>Incorporate a sustainability matrix that implements a point system for sustainability strategies utilized, which can then provide incentives to the property owner. Norfolk in one Virginia community that has adopted this practice. Some sustainability characteristics that could result in incentives such as additional height, increased density, or decreased parking:</p> <ul style="list-style-type: none"> • Orient buildings north and south for passive solar gain; • Trees on Southern exposures of new developments; • Tree islands in parking lots; • Bicycle parking in new developments; • Showers and lockers for bicycle riders; • Transit shelter where appropriate.
Preserve, Protect, and Restore the Tree Canopy	Increase the Urban Tree Canopy & Maintain the Existing Coverage	<p>Prohibit clear cutting of trees for new development by requiring tree survey and protection plans, and replacement requirements where trees are removed;</p> <p>Require native tree species.</p> <p>Incorporate these requirements into the Town Code or DCSM.</p> <p>Consider these amendments as an early item for adoption to apply to all upcoming development applications.</p>

Comprehensive 20-year Parks, Recreation, Open Space, Trails, and Greenways Master Plan		
Plan Goal	Objective	Recommended Approach for Addressing in ZO
Urban Forest Tree Canopy Retention		
40% tree canopy coverage	New park and downtown construction projects should include as many new trees as is practical.	Require new construction to include a tree plan as part of their site plan submittal that meets a minimum of 30% canopy coverage on-site to begin building up the Town's current tree canopy, which sits at only approximately 18%
	Species variation is important, as is the use of native plants wherever possible.	Require native species as well as those that have a higher percentage of shade.

2. Restructure the Zoning Districts

Another significant part of implementing the policies of *Legacy Leesburg* is to rework the zoning districts. This effort will involve concentrating on urban and suburban design and form as the main approach, rather than land use. We propose to consolidate overlapping districts; eliminate or merge obsolete or unused districts; and update districts to reflect descriptive naming (building on the current nomenclature). The zoning districts that are supplanted by new or revised districts will remain partially in play in the future as legacy districts, as the H-2 district is currently treated. The table below shows the manner in which the districts are proposed to be reconfigured.

Character Areas	Current Districts	Proposed Districts	Proposal
BASE DISTRICTS			
RESIDENTIAL ESTATE	R-E, R1	RE, Residential Estate	Carry over of existing R-E district with as-needed modifications.
RESIDENTIAL NEIGHBORHOOD	R2, R4	RS, Residential Suburban	20,000 square-foot minimum lot area with potentially revised by-right cluster provisions that exchange smaller lot areas for permanent open space or other community amenities.
MIXED DENSITY NEIGHBORHOOD	R6, R8	RM, Residential Mixed	A range of lot sizes that allows single-family and duplex development and, with by-right clustering, allows the addition of townhouses.
	R16, R22, B4	RU, Residential Urban	A range of lot sizes that allows all housing types and incorporates community amenities suitable for urban character, rather than open space. Neighborhood-supporting, small scale office and retail may be permitted by Limited Use or Special Exception.
NEIGHBORHOOD CENTER	O-1, NEW	CN, Commercial Neighborhood	Semi-mixed use district that allows business and office uses together with multi-family and upper-story residential.

Character Areas	Current Districts	Proposed Districts	Proposal
BASE DISTRICTS			
RETAIL CENTER	B2, B3	CS, Commercial Suburban	Automobile-oriented regional commercial uses primarily oriented toward greenfield development with landscaped areas, interconnected bikeways and walkways, and community amenities.
BUSINESS & INDUSTRIAL	I-1	IR, Industrial Research Park	Carry over of existing I-1 district with modifications related to newer uses and technologies.
MIXED USE CENTER RETROFIT	NEW	MUR, Mixed Use Retrofit	On previously developed properties, a range of lot sizes that allows all or most housing types, incorporates community amenities, and allows neighborhood-supporting, smaller scale office and retail uses.
MIXED USE CENTER	NEW	MU, Mixed Use	On the periphery of the Town, a range of lot sizes that allows all or most housing types, incorporates community amenities, and allows neighborhood-supporting, smaller scale office and retail uses.

Character Areas	Current Districts	Proposed Districts	Proposal
BASE DISTRICTS (CONT.)			
INNOVATION CENTER	NEW	IC, Innovation Center	A variation on the Mixed Use district that combines residential uses with employers such as technology and research and development uses together with the green amenities often found in an business park.
CRESCENT AREA	Crescent Design District	CD, Crescent Design	Modifications to the Crescent District based on the revisions to the Crescent District Area Plan.
SPECIAL PURPOSE AND OVERLAY DISTRICTS			
SPECIAL USE	MC, GC, MA, A-1, NAC, Floodplain Overlay	No change	Site-specific on zoning map depending on the land use.
DOWNTOWN	B-1	DT, Downtown	Modifications to these districts based on stakeholder comments, best practices, and relevant policy documents.
	H-1	H-1, Old and Historic Overlay	
	R-HD	R-HD, Historic Residential	

Character Areas	Current Districts	Proposed Districts	Proposal
SPECIAL PURPOSE AND OVERLAY DISTRICTS (CONT.)			
VARIOUS	Gateway Overlay	GW, Gateway Overlay	Modifications to this district based on stakeholder comments, best practices, and relevant policy documents.
PLANNED DEVELOPMENT DISTRICTS			
VARIOUS	PD-CC-SC - Planned Commercial Center/Shopping Center	PD-CC-SC, Planned Commercial Center/Shopping Center	Seek ways to minimize their use or eliminate all together. Updated base districts should accommodate varying housing types and densities and mixing of uses.
	PD-IP - Planned Industrial Park	PD-IP, Planned Industrial Park	Existing properties zoned as Planned could continue.
	PRC - Planned Residential Community	PRN, Planned Residential Neighborhood	See below.
	PRN - Planned Residential Neighborhood		

The PRN and PRC could be consolidated. Their land uses are very similar, as shown below, with Mixed Use Center, Library, Museum, and Nursing Home being the only difference in uses. The addition of the MU and MUR districts eases this proposed consolidation because those districts will be the “default” home of mixed use developments, rather than a Planned Development District. During drafting, it will be necessary to reconcile the open space requirements. The requirement is 25 percent in both, but there is a 15 percent option for infill development in PRN, that is not found in PRC, which can be carried over to the consolidated district.

PRN Uses			PRC Uses		
Use	Use Standards	Definition	Use	Use Standards	Definition
Commercial Uses			Commercial Uses		
Government Office			Government office		
Neighborhood Retail Convenience Center	Sec. 9.3.16	Sec. 18.1.113	Neighborhood retail convenience center	Sec. 9.3.16	Sec. 18.1.113
Institutional and Community Service Uses			Institutional and Community Service Uses		
Cemetery		Sec. 18.1.28	Cemetery		Sec. 18.1.28
Fire and/or rescue facility		Sec. 18.1.64	Fire and/or rescue facility		Sec. 18.1.64
Group homes		Sec. 18.1.74	Group homes		Sec. 18.1.74
Park, public			Library		Sec. 18.1.89
Place of worship		Sec. 18.1.141	Museum		
Recreation facility	Sec. 9.3.21	Sec. 18.1.156	Nursing home	Sec. 9.3.17	Sec. 18.1.120
School, general education		Sec. 18.1.162	Park, public		
School, public		Sec. 18.1.163	Place of worship		Sec. 18.1.141
Residential Uses			Residential Uses		
All principal and accessory residential uses			Recreation facility	Sec. 9.3.21	Sec. 18.1.156
Utility Uses			Utility Uses		
Public Utility, minor		Sec. 18.1.153	School, general education		Sec. 18.1.162
Public Utility, major		Sec. 18.154	School, public		Sec. 18.1.163
			Residential Uses		
			All principal and accessory residential uses		
			Utility Uses		
			Public utility, minor		Sec. 18.1.153
			Public utility, major		Sec. 18.1.154

Figure 7 Highlighted Differences Between the PRN and PRC Districts

All in all, the 13 base districts are proposed to be consolidated to 10 with no significant changes proposed to many of the Special Purpose and Overlays. Consolidation of zoning districts has many benefits, including, but not limited to easier administration by Town staff and a potential reduction in the need for applicants to request rezonings in order to get a project going.

3. Improve the Land Use Regulations

The use regulations in the Zoning Ordinance should be modernized in a few different ways. There are a number of rather new land uses that should be incorporated into the document, including but not limited to:

- Vape shop;
- Axe throwing lounge;
- Electric vehicle charging; and
- Deliver-only or drive-through only restaurants.

For such restaurants listed above, consideration would need to be given for vehicle stacking among other provisions.



The Zoning Ordinance currently has both district-by-district use tables and a consolidated use table. Both formats have their benefits, but for a Zoning Ordinance to have both formats opens it up to significant chances to have errors. Whenever an amendment is made to the Zoning Ordinance in the future, the Town has to remember to make changes in both places, and to use consistent terminology. This is easier said than done. In order to reduce chances of errors, upon consultation with Town staff, it is proposed to retain the consolidated use table and dispense with the district-by-district use tables.

Table 9.2 Use Table																	
Use Type	R E	R 1	R 2	R 4	R 6	R H D	R 8	R 1 6	R 2 2	O 1	B 1	B 2	B 3	B 4	I 1	Use Standard	
P = Permitted by Right S = Special Exception Approval Required (Sec. 3.4) M = Minor Special Exception Approval Required (Sec. 3.4)																	
Agricultural Uses																	
Farming	P															P	
Natural Spring Water Extraction and Bottling Plant	S															Sec. 9.3.15.1	
Nursery	P															P	
Stable	P															P	
Commercial Uses																	
Auditorium																P/S	Sec. 9.3.1.1
Bank with drive-in facility											S	S	S	S			
Bank without drive-in facility											P	P	P	P			
Bed and breakfast inn	S	S	S				S				P						
Bowling alley											P	P	M				
Brewpub											P	P	P	P		Sec. 9.3.2.1	
Brewpub with Silo											M	M	M	M		Sec. 9.3.2.1	

R-E Uses		
Use	Use Standards	Definition
Agricultural Uses		
Farming	P	Sec. 18.1.63
Natural Spring Water Extraction and Bottling Plant	S	Sec. 9.3.15.1, Sec. 18.1.163
Nursery	P	Sec. 18.1.119
Commercial Uses		
Bed and Breakfast Inn	S	Sec. 18.1.16
Child Care Center	S	Sec. 18.1.29
Country Club	P	Sec. 18.1.40
Emergency Care Facility	S	Sec. 18.1.58
Golf Course	P	Sec. 18.1.72
Golf Driving Range	S	Sec. 18.1.71
Home Occupation	P	Sec. 18.1.80
Kennel	S	Sec. 9.3.12, Sec. 18.1.88
Nursery	S	Sec. 18.1.119
Recreation Facility	S	Sec. 9.3.21, Sec. 18.156
Stable	P	Sec. 18.1.176
Telecommunications Facility: Power Mount Facilities on Existing Electric Transmission Towers	S	Sec. 9.3.26.A&C, Sec. 18.1.184
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F, Sec. 18.1.43.1

Figure 9 Consolidated and District-by-District Use Tables

In order to ensure that similar uses are treated similarly and dissimilar uses are treated differently, we recommend utilizing Use Categories. They intuitively group land uses into groupings and then they are treated similarly in the consolidated use table. Following is a list of typical Use Categories:

Residential Use Categories

Household Living

Group Living

Public and Civic Use Categories

Community Service

Day Care

Educational Facilities

Government Facilities

Medical Facilities

Parks and Open Areas

Passenger Terminals

Places of Worship

Social Service Establishments

Utilities (Major and Minot)

Commercial Use Categories

Office

Commercial Use Categories (Cont.)

Overnight Accommodations

Parking, Commercial

Recreation, Indoor

Recreation, Outdoor

Restaurants

Retail Repair, Sales, and Service

Vehicle Sales and Service

Industrial Use Categories

Heavy Industrial

Light Industrial

Warehousing

Waste-Related

Wholesale Trade

Open Use Categories

Agriculture

Resource Extraction

The use table will contain these Use Categories, and, for example, all Indoor Recreation would be addressed on a single row, except for those “outliers” that would be treated differently in terms of which zoning district allow them. See the sample tables below, where all of the specific uses that make up Indoor Entertainment are established, along with their associated accessory uses. Then, in the use table, most Indoor Entertainment uses are allowed on the final row of the sample Use Table. Uses of potential concern, such as sexually-oriented businesses, shooting ranges, or video lottery machines are handled differently. This helps to eliminate the concern that functionally similar or identical uses such as a rock climbing gym, a skating rink, a trampoline park, and others, would be unintentionally treated differently.

Indoor Entertainment and Recreation Use Category
 Characteristics: Generally commercial uses, varying in size, providing daily or regularly scheduled entertainment or recreation-oriented activities in an indoor setting.

Primary Uses

- Arcade or Skilled-Based Amusement Machine
- Axe Throwing Lounge
- Bar, Tavern, or Nightclub
- Billiard Parlor or Pool Hall
- Bingo Hall
- Bowling Alley
- Entertainment Device Arcade
- Event Hall or Conference Center
- Microbrewery, Microdistillery, or Microwinery
- Rock Climbing Gym
- Sexually Oriented Business
- Shooting Range, Indoor
- Skating Rink
- Tennis, Racquet Ball, or Pickle Ball Facility
- Theater
- Trampoline Park
- Swimming Pool, Indoor
- Video Lottery Terminal (VLT)
- Other uses meeting the characteristics of the Indoor Entertainment and Recreation Use Category

Accessory Uses

- Associated Office and Storage
- Associated Retail Sales Related to the Primary Use
- Concessions
- Food Preparation and Dining Facility
- Minor Utilities
- Refuse Containers
- Swimming Pool

Table 1203.02-1, Use Table
 Key: P = Permitted Use | C = Conditional Use | L = Limited Use | -- = Prohibited

Use Category	Use Type	RR	SR	GR	NC	UR	MU	DT	HC	GC	EC	U	HI	Use Standard
Residential Use Categories														
Entertainment Device Arcades		--	--	--	--	--	--	--	--	C	--	--	--	1203.05
Event Hall or Conference Center		--	--	--	--	--	L	L	L	L	L	--	--	1203.04
Microbrewery, Microdistillery, or Microwinery		--	--	--	--	--	L	L	L	L	L	P	P	1203.04
Sexually Oriented Business		--	--	--	--	--	--	--	--	L	--	--	--	1203.04
Shooting Range, Indoor		--	--	--	--	--	--	--	--	--	--	P	P	
Video Lottery Terminals (VLT)		--	--	--	--	--	--	--	P	P	--	P	P	1203.04
Other Indoor Entertainment and Recreation uses not listed above		C	--	--	--	--	P	P	P	P	P	P	--	1203.05

Figure 10 Use Category Table and Use Table from Another Community

Streamlining opportunities exist in regard to the land use regulations in the form of potentially transitioning some Special Exception and Minor Special Exception uses to Limited Uses. Limited Uses are those that are generally permitted by right, but that have specific standards tied to them in a particular district or districts. For example, service stations (which should be re-named to fuel sales) in B3, which is proposed to be reorganized as CS, Commercial Suburban, could go from being a Special Exception, which requires public notice and hearings, to an administratively approved Limited Use. The use could only be established in the B3 / CS district if Town staff found that its design meets specific standards related to the use. This concept will be important across many of the districts, but especially in the Mixed Use districts where as many real or perceived regulatory hurdles should be removed in the Ordinance in order to make mixed use development, as a preferred type of development in *Legacy Leesburg*, as feasible as possible.

4. Update Development Standards

Open and Amenity Space

The Wants and Needs section of *Legacy Leesburg* articulates “A desire for more opportunities to enjoy community—places to get together, Main Streets and parks that bring people together, events like parades and the Flower and Garden Show that invite people to celebrate together.” Development of private property can facilitate the creation of such destinations. Most people are familiar with the concept of “public (or common) open space”. Such space may be dedicated as part of the development of a residential subdivision. Open space tends to be of rural or suburban character. There are trails, large grassy areas, and landscapes that appear in their “natural” state. However, not all of Leesburg is of a suburban character. Some districts will be calibrated to create an urban character where this type of open space is not appropriate, or even possible. Therefore, this critique introduces community amenity space. Such spaces may come in the form of plazas, courtyards, or outdoor dining areas.

“A desire for more opportunities to enjoy community—places to get together, Main Streets and parks that bring people together, events like parades and the Flower and Garden Show that invite people to celebrate together.” - *Legacy Leesburg*

However, the Town cannot depend on a land developer’s good will to dedicate common open space or community amenity space, nor may it be fair to “penalize” a developer by reducing the number of buildable lots or units by requiring the dedication of common open or amenity space. In the consultant team’s experience, it is a best practice to incentivize such dedication with worthwhile density bonuses (i.e., increased unit or lot count compared to if the developer had not dedicated the open space or amenity space).



Figure 11 Various Type of Rural and Suburban Common Open Space, Compared to Common Amenity Space

Kendig Keast Collaborative is currently utilizing this approach in Chesterfield County, Virginia. To the right is are excerpts from their draft Zoning Ordinance that shows the Semi Urban Residential District, together with varying amenity space options and lot sizes that allow for smaller lot size (which equates to greater density) in exchange for setting aside more area for amenity space. In addition, as an ease-of-use feature, each district standards table has accompanying illustrations that show what is meant by terms such as setback, building height, and building coverage.

Affordable Dwelling Units (ADUs)

It would be difficult to find an American community that is thriving that does not have a problem with creating and maintaining affordable housing. Leesburg is no different. *Legacy Leesburg* has a number of recommendations that recognize the need for more housing affordability in the Town, including but not limited to:

- Strategy 3.2.1 Create a new Generation of Walkable Neighborhoods That Address Changing Demographics
- Strategy 3.2.2 Promote a Diverse Range of New Housing Options (Based on Income, Age, Household Types and Sizes, Etc.)
- Strategy 3.3.1 Provide Affordability for All
- Strategy 3.3.6 Consider Manufactured Housing in Addressing Affordable Housing Needs

During stakeholder interviews, an affordable housing builder informed the consultant team that the prescribed densities in the Zoning Ordinance’s ADU provisions are not possible to achieve. As a result, the consultant team “ran the numbers” of Leesburg’s ADU standards though its proprietary residential density modeling software. The tables below show how the minimum lot sizes in a couple of selected districts could be adjusted to allow an ADU builder to achieve the densities set forth in the Zoning Ordinance. Table 1, below, show the existing provisions for conventional and ADU development of single-family units in the R-2 and R-4 districts, as an example to demonstrate how the standards in other districts could change as well.

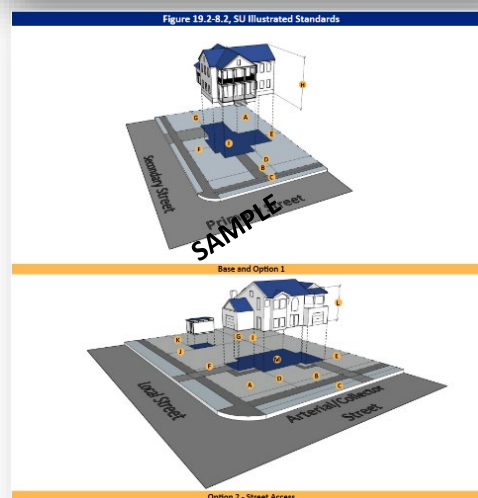


Figure 12 Samples from Chesterfield County's Draft Zoning Ordinance

Table 1 Current Density, Lot Area, and Lot Width Provisions from Conventional Versus ADU Single-Family Development			
District (Proposed to be Consolidated to RS, Residential Suburban)	Standard (SF-Detached)	Conventional Single-Family Development	ADU Single-Family Development
R-2	Density	2.2 units / acre	2.4 units / acre
	Min. Lot Area	20,000 sq. ft.	18,150 sq. ft.
	Min. Lot Width	90 ft.	72 ft.
R-4	Density	4.4 units / acre	4.8 units / acre
	Min. Lot Area	10,000 sq. ft.	9,075 sq. ft.
	Min. Lot Width	75 ft.	60 ft.

Table 2, below, shows a modest modification to the minimum lot area requirements for ADU single-family development in R-2 and R-4. As stated above, similar changes could take place for other districts and housing types so that, at minimum, the ADU density stated in the Zoning Ordinance is achievable.

Table 2 Proposed Minimum Lot Area Change for ADU Single-Family Development in R-2 and R-4				
District (Proposed to be Consolidated to RS, Residential Suburban)	Standard (SF-Detached)	Conventional Single-Family Development	ADU Single-Family Development	
			Existing	Proposed
R-2	Density	2.2 units / acre	2.4 units/acre	2.4 units/acre
	Min. Lot Area	20,000 sq. ft.	18,150 sq. ft.	15,750 sq. ft.
	Min. Lot Width	90 ft.	72 ft.	72 ft.
R-4	Density	4.4 units / acre	4.8 units/acre	4.8 units/acre
	Min. Lot Area	10,000 sq. ft.	9,075 sq. ft.	7,700 sq. ft.
	Min. Lot Width	75 ft.	60 ft.	60 ft.

The reader may note that at the beginning of this report, R-2 and R-4 are proposed to be consolidated into an RS, Residential Suburban district. To accommodate this consolidation, we propose that the RS district have two affordability options within it that are similar to what is shown in Table 2, above. As shown in Table 3, below, one option would allow for a smaller amount of common open space or common amenity space dedication, while the other would require more common open space or

common amenity space and include a density bonus as a reward. For Option 3, in order to provide an attractive bonus, the housing type would need to be single-family attached (two dwelling units on two separate lots, separated by a common wall). This lot size and width in such arrangement would give the appearance of a single-family detached unit on 50-foot wide lot with 5,500 square feet of lot area.

Table 3 Proposed Minimum Lot Area Change for ADU Single-Family Development in R-2 and R-4		
District RS, Residential Suburban (Affordable)	Standard (SF-Detached)	ADU Single-Family Development
Option 1	Density	4.8 units / acre
	Min. Lot Area	5,700 sq. ft.
	Min. Lot Width	60 ft.
	Min. Open Space / Amenity Space	20%
Option 2	Density	7.2 units / acre
	Min. Lot Area	2,750 sq. ft. (single-family attached)
	Min. Lot Width	25 ft. (single-family attached)
	Min. Open Space / Amenity Space	35%

Note that through an interlocal agreement with Loudoun County, the Town has a cap of 120 ADUs that it can accommodate. With approximately 40 ADUs in existence in the Town, there is capacity for 80 more ADUs before the agreement would need to be modified.

Landscaping and Screening Standards

Legacy Leesburg states “Future development should strive to help obtain an estimated tree canopy coverage of 30 percent for the Town. A 35 percent cover is preferable and would require plantings by private landowners.” This is an admirable goal that the landscaping and screening provisions of the updated Zoning Ordinance could help achieve.

A significant change being considered is an increase in the required tree canopy coverage for suburban areas, with the aim of raising it from the current range of 10 percent to 20 percent, depending on the district, to a uniform 30 percent. This adjustment seeks to promote greenery and environmental sustainability. In contrast, urban areas may place greater emphasis on hardscape amenity spaces, potentially resulting in a reduced requirement for tree canopy coverage. It's important to note that under Virginia Code Section 15.2-961, the maximum allowable tree canopy coverage is currently set at 20 percent. However, Section 961.1 allows for an extension up to 30% for areas with two or fewer units per acre, so this enhanced percentage could only apply in certain zoning districts.

“Future development should strive to help obtain an estimated tree canopy coverage of 30% for the Town. A 35% cover is preferable and would require plantings by private landowners.” - *Legacy Leesburg*

The City of Littleton, Colorado, has tree canopy requirements that are based on zoning district. Existing preserved trees on a site count toward the canopy requirement and newly-planted trees receive credit based on what their canopy should be in 20 years, based on what is typical for their species.

Subsec. 10-1-3.6.E Tree Canopy Coverage Requirements

A. Applicability. The standards of this Subsection apply to the MFR, NC, CM, and BC districts.

B. Minimum Standards. The tree canopy coverage requirements for the applicable districts are set out in Table 10-1-3.6.E, *Canopy Coverage Requirements*.

Table 10-1-3.6.E Canopy Coverage Requirements	
Zoning District	Minimum Tree Canopy Coverage
MFR, Multi-Family Residential	20%
NC, Neighborhood Commercial	15%
CM, Corridor Mixed	15%
BC, Business Commercial	10%

Table Notes:
1. The minimum canopy coverage requirements are based on gross lot area.

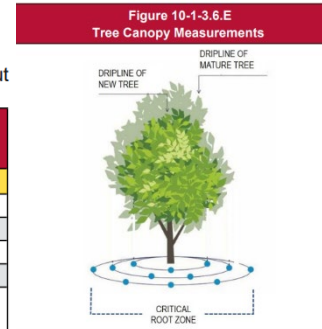


Figure 13 Tree Canopy Excerpt from Littleton, CO's Unified Land Use Code

Tree canopy on a site has several benefits. Increased tree canopy reduces the “heat island” effect, where paved areas are hotter than their unpaved surroundings, provides shade to help promote increased pedestrian activity, and adds to the Town’s biomass, assisting with converting carbon dioxide to oxygen.

In the updated Zoning Ordinance, we propose to revise landscaping and screening requirements specifically tailored for urban and mixed use areas. One notable related change is the introduction of hardscape amenities to partially replace traditional landscaping, recognizing the unique needs of urban environments. Additionally, the Town should consider establishing standardized parking area screening standards based on context and parking area size, streamlining the approval process by avoiding case-by-case modifications at the Board of Architectural Review (BAR). Moreover, consideration is warranted of variable percentages for interior parking lot landscaping, taking into account the size and context of the lot, rather than applying a uniform flat percentage as is current practice. Finally, the updated Ordinance may permit the use of green screening walls for dumpsters and other equipment, as depicted on the following page, allowing property owners to receive credit for incorporating eco-friendly screening solutions. These proposed changes aim to create a more flexible and context-sensitive approach to landscaping and screening within urban areas, aligning with evolving land use and design practices.

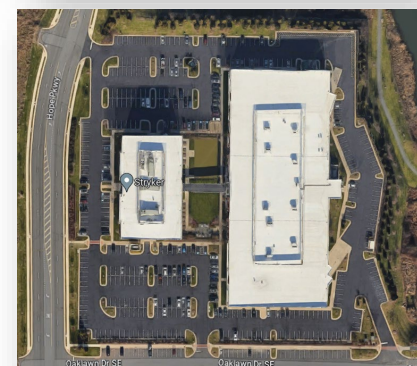
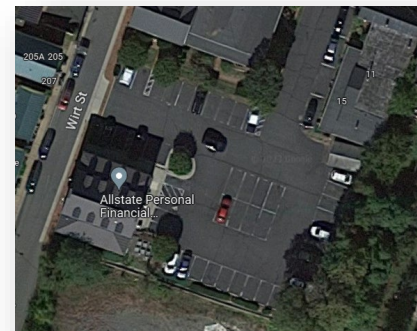


Figure 14 Differently Sized Parking Areas in Different Locations May Require Context-Sensitive Provisions



Additionally, in the updated Zoning Ordinance, we propose to enhance clarity and streamline the document by potentially relocating planting lists and plan submittal requirements to an Appendix for easier reference. The flip side of that proposal is that some applicants insist that if submittal requirements or plant species are not directly in the adopted Ordinance, then they are not “requirements.” Further discussion with Town staff will be necessary to come to a conclusion on this approach.

Parking

The Zoning Ordinance update aims to establish a robust and coherent connection between the consolidated use table and the parking table, promoting consistency and clarity in the regulations. Notably, we propose to address discrepancies between the two tables. Uses such as appliance stores and medical clinics/offices, are currently found in the parking table but not in the use tables. While, conversely, uses like brewpubs and conference centers, present in the use tables are not in the parking table.

To determine appropriate parking ratios, industry standards, such as those provided by the Institute of Transportation Engineers (ITE), will be utilized for various uses, including airport hangars, general offices, and retail sales. The update also contemplates eliminating minimum loading ratios for specific uses and contexts.

Shared parking, particularly in the downtown, should be incentivized. Additionally, the update will establish comprehensive standards for bicycle parking to promote sustainable transportation options.

Furthermore, the revision will explore the possibility of implementing both "hard" parking maximums, whereby a site cannot exceed the maximum allowable amount of parking spaces, and "soft" maximum parking requirements, whereby the maximum can be exceeded on a site, in exchange for providing additional landscaping or amenity space, permeable parking areas, or other site amenities. These strategies promote flexibility while considering environmental benefits and cost reductions.

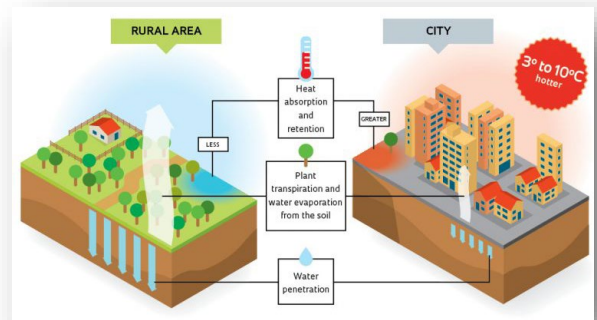


Figure 16 Benefits of Less Paved Surfaces

Finally, constrained sites may be granted the opportunity to change their use if they can meet at least 80 percent of the minimum required parking, mitigating the need for demolition, promoting reuse of existing structures, and potentially enhancing affordability and sustainability. These changes collectively aim to create a more adaptable and environmentally conscious parking framework within the updated Zoning Ordinance.

Sustainability Index

In the updated Zoning Ordinance, a significant proposal involves the incorporation of a Sustainability Index, reflecting a commitment to environmental responsibility and resilience. This index would introduce various sustainability incentives to promote environmentally friendly development practices. These incentives encompass:

- Residential density bonuses;
- Increased allowable building heights;
- Expanded lot coverage;
- Reduced parking requirements;
- Larger maximum sign areas; and
- The potential for reduced common open or common amenity space requirements.

To unlock these incentives, developers would be encouraged to incorporate specific sustainability characteristics on-site. These include:

- Providing eaves and other shade features on the south elevation;
- Allocating a certain percentage of required trees adjacent to the south elevation;
- Providing electric vehicle (EV) charging stations;
- Obtaining LEED, U. S. Green Building Council, or other similar certification; and
- Opting for green or white roof installations.

These measures collectively aim to foster a more sustainable and eco-conscious approach to development within the updated Zoning Ordinance.

The City of Norfolk, Virginia has adopted a Resiliency Quotient (another name for a Sustainability Index) in its Zoning Ordinance. In Norfolk, compliance with the Resiliency Quotient requirements is optional for

single-family residential developments. For multifamily development, one to five units requires the accumulation of four points. For 200 or more units, 10 points is required from the list of sustainability characteristics. For nonresidential development, floor area of less than 10,000 square feet requires three points. Projects with more than 50,000 square feet of floor area require 10 points. Refer to Figure 17, below, for an excerpt of Norfolk’s sustainability characteristics and associated points.

TABLE 5.12.7.: RESILIENT POINT SYSTEM FOR NON-RESIDENTIAL DEVELOPMENT	
Resilient Development Activity	Points Earned
Component 1: Risk Reduction	
Construct building to meet 110-mile wind load design requirements of the VUSBC	2.00
Equip the project with at least one alternative, independent source of electricity supply so that the project is fully capable of operating if a primary source of power experiences an interruption	1.50
If the project involves a critical facility that is intended to remain operational in the event of a flood, or whose function is critical for post-flood recovery, design the facility to be protected and operable at the water levels represented by a 0.2% annual chance (500-year) flood	1.00
Elevate the ground story finished floor and all significant electrical and mechanical equipment no less than 3 feet above highest adjacent grade or to an elevation of 11 (NAVD '88)	1.00, plus 0.50 per ft. above 3 ft.
Install a generator for power generation in the event of power failure sufficient to keep critical operations functional	0.50
Establish operating procedures for how the project will handle loss of off-site or grid power, transition to a backup source of power, and transition back to normal operation	0.50
Component 2: Stormwater Management	
Install a <u>green roof</u> on at least 50 percent of the total roof area (25 percent for renovated buildings) and only plant materials permitted in <u>Section 5.2, Landscaping Standards</u>	2.00
Install a green roof on at least 25 percent of the total roof area and only plant materials permitted in <u>Section 5.2, Landscaping Standards</u>	1.00

Figure 17 An Excerpt of Norfolk's Resiliency Quotient (Synonymous with Sustainability Index)

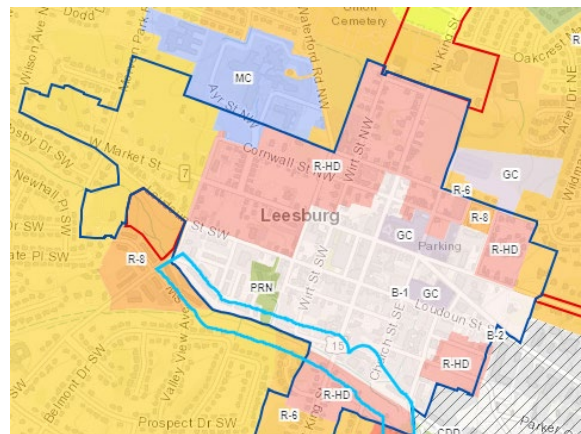
Historic, Gateway, and Crescent Districts

H-1 District

A key objective of the proposed changes to the H-1 Overlay is to clearly differentiate the overlay from the underlying zoning districts that are applicable in other areas. These underlying districts include R-4, R-6, R-8, R-HD, B-1, GC, MC, and PRN. The primary focus of this differentiation is to ensure that the standards within H-1 are distinct and do not require the typical suburban design and land use patterns found in the other zoning districts.

The overarching goal is to maintain the unique character and historical significance of the H-1 District by tailoring regulations to align with its specific character. This will help preserve the area's charm and historical value while differentiating it from the more suburban development standards applied elsewhere in the Town.

In the proposed updates for this district, there is a focus on right-sizing various requirements and standards to better align with the specific characteristics of the area. This includes a potential reduction in parking requirements, tailored to different land uses to ensure they are appropriate for the district's unique needs.



Additionally, there is consideration for zero lot line setbacks, reflecting the historic district's layout and architectural styles. Minimum lot sizes may be reduced to more accurately mirror the existing development patterns within the historic district.

The proposed updates to the Zoning Ordinance may also address accessory structures by considering lot sizes in the historic district and developing standards that allow for detached accessory structures, enhancing the flexibility of use of the property. Furthermore, landscaping requirements will be adjusted to more accurately align with the historic district's character and to potentially reduce the number of modification requests.

Another critical aspect is the update of demolition by neglect standards to ensure the preservation of historic structures within the district. These updates collectively aim to create a regulatory framework that is better suited to the district's unique context while preserving its historical and architectural heritage.

Gateway District

To enhance the user-friendliness and effectiveness of the Gateway District, several recommendations are elaborated upon in this subsection:

1. **Include Guiding Principles.** It is advisable to incorporate guiding principles from the district guidelines directly within the purpose Section of the district. This ensures that the fundamental principles guiding development in the district are readily accessible and integral to the code.
2. **Amend Corridor Segment Designations.** To provide clarity, the district should be amended to include descriptions of the five sub-areas within the district, offering at least an outline annotation. This will help stakeholders better understand the specific characteristics and objectives of each segment.
3. **Clarify 15-foot Residential Lot Frontages.** The Ordinance should explain the purpose and application of the 15-foot residential lot frontages. This clarification should focus on how these frontages relate to structures immediately adjacent to the road, such as fences, low walls, and small accessory structures.
4. **Provide a Web Link to Guidelines.** To facilitate access to supplementary materials, consider including a web link to the comprehensive guidelines associated with the Gateway District. This would enable users to access additional guidance and resources easily.
5. **Simplify COA Process.** Streamline and simplify the COA process within the district, and explore opportunities to consolidate it with the processes in place for other districts. Reducing complexity in the development review process can improve efficiency and clarity. Consider narrowing/focusing the applicability for the COA process, based on project size, historic nature or context of existing development, key parcels, or other relevant factors.
6. **Prioritize Universal Standards.** Emphasize the importance of universal standards over process-related details. Ensure that these standards are tailored specifically to the Gateway District to address its unique character and development goals effectively.
7. **Incorporate Objective Modification Standards.** Make objective "modification" standards an integral part of the universal standards. This inclusion will help standardize the criteria for modifications, promoting consistency and transparency in the development process.
8. **Specific Dimensional Standards.** The Gateway District should have its own dimensional standards.

By implementing these recommendations, the Gateway District code can become more user-friendly and align more effectively with the district's development objectives while providing clear and accessible guidance to all stakeholders.

The Gateway District provisions in the current Zoning Ordinance has a purpose statement that says that it seeks to ensure high-quality design by implementing a system of architectural control. The guidelines themselves are explicit in their intention to emphasize traditional land use and architectural design to gradually transition the Gateway District towards a more traditional land use and building design pattern over time. However, the guidelines primarily address building appearance and aesthetics. They do not provide regulations related to land use patterns or dimensional (building placement, height, building coverage, etc.) standards, as these aspects are governed by the underlying zoning districts. The Gateway District should have its own dimensional standards.

One of the critical concerns for the Gateway District pertains to the overly broad applicability of the Gateway District regulations. Currently, these regulations encompass nearly all types of development, redevelopment, rehabilitation, or exterior alterations, with some exceptions like maintenance and single-family residences and existing duplexes and townhouses. The review process, often subject to the discretion of the Board of Architectural Review (BAR) and the Preservation Planner, seems to potentially be creating disincentives for development within the district. This extensive oversight may be burdensome for Town staff, the BAR, property owners, and applicants alike.

Furthermore, the requirement for the review of demolitions, even for buildings categorized as "non-contributing" or "inappropriate" for the Gateway District corridors, may be a potential hurdle to efficient development and revitalization efforts. Another issue highlighted is the presence of subjective language within the Design Criteria (Sec. 7.12.6), which may lead to varying interpretations and further complicate the development review process. Balancing the need for preserving the district's character with more streamlined and objective criteria is an important consideration in addressing these concerns.

Several concerns have been identified regarding the organization and clarity of the Gateway District, which could be made more user-friendly in this update. Although sub-areas are delineated within the district, the distinct character of each corridor segment is referenced but not sufficiently described. The purpose of the 15-foot "district width on existing residential lots" is unclear, creating uncertainty in its application. Additionally, while applications are required to adhere to guiding principles, these principles are notably absent from the Ordinance, contributing to ambiguity in the development process.

The code contains a complex section with 17 sub-sections related to the Certificate of Appropriateness (COA) process, covering aspects such as application, notice, review, appeal, and modifications. However, the relationship and timeline between the COA process and basic development review procedures are unclear, making it challenging to navigate the regulatory framework.

Moreover, the Universal Standards for site and building design, which are critical for development, are located towards the end of Sec. 7.12. Many of these standards do not appear to be specific to the Gateway District and are reminiscent of typical suburban large-scale development regulations. There are also no explicit requirements for streets, blocks, or connectivity within the district, and it's unclear how these standards relate to different base districts or vary for parcels of varying sizes and contexts.

Interestingly, the Approval Criteria for "requested modifications" are more specific and objective than the universal standards, addressing rules for sidewalk orientation, functioning entrances, roof/window design, and building materials. Notably, the Gateway District Purpose and Standards do not mention pedestrian-orientation or walkability explicitly, while the modification criteria and Gateway Guidelines do, potentially signaling an area for improvement in the code's alignment with promoting a pedestrian-friendly environment.

Crescent Design District

Potential changes to the Crescent Design District are pending the completion of the update policy document for the Crescent area.

5. Revise Review Procedures

The Town’s current development review procedures involve several key points of discussion:

- 1. Special Exception Permitting.** According to Virginia Code § 15.2-2286(A)(3), the Town Council may have the authority to make decisions on special exception applications without referring them to the Planning Commission for recommendation. Additionally, the Town Council has the option to refer some or all special exception applications to the Board of Zoning Appeals (BZA) for review and decision, as outlined in Virginia Code § 15.2-2309(6).
- 2. Decision Authority.** Currently, the Town reserves the authority to make decisions on minor special exceptions and seeks recommendations from the Planning Commission before deciding on others. It appears that the BZA is not typically involved in the decision-making process for special exception applications.
- 3. Joint Public Hearings.** The Town Council and Planning Commission have the option to hold joint public hearings, provided that they are advertised in accordance with Virginia Code § 15.2-2204. This allows for collaborative public engagement and input on various matters.

Procedure	Section No.	Review and Decision-Making Authority					Notices (Written, Placard, Newspaper)
		Staff	PC	BZA	BAR	Council	
Zoning Ord. Text Amendments	3.2	R	<R>	—	—	<DM>	N
Zoning Map Amendments	3.3	R	<R>	—	—	<DM>	W, P, N
Special Exceptions	3.4	R	<R>	—	—	<DM>	W, P, N
Minor Special Exceptions	3.4	R				<DM>	W,P,N
Demolition Permits (BAR)	3.6	R			<DM>	<A>	W,P
Temporary Use Permits	3.5	DM	—	<A>	—	—	—
Zoning Permits	3.7	DM	—	<A>	—	—	—
Wall Check Plats	3.8	DM	—	<A>	—	—	—
Occupancy Permits	3.9	DM	—	<A>	—	—	—
Certificate of Appropriateness	3.10	R	—	—	<DM>	A	W, P
Architect. Control Cert. of Approval	3.11	R	—	—	<DM>	A	W, P
Commission Permits (Public Projects)	3.12	R	<DM>	—	—	<A>	W,P,N
Variances	3.13	R	—	<DM>	—	—	W, P, N
Administrative Decisions	3.14	DM	—	<A>	—	—	W, P, N*
Proffer Appeals	3.15	DM	—	—	—	<A>	N

PC = Plan. Comm.; BZA = Bd. of Zoning Appeals; BAR = Bd. of Architectural Review; Council = Town Council
 R = Review Body (Responsible for Review and Recommendation)
 DM = Decision-Making Body (Responsible for Final Decision to Approve or Deny)
 A = Authority to hear and decide appeals of Decision-Making Body's action
 <P> = Public Hearing Required
 *W,P,N notice only on appeal to BZA

Figure 19 The Town's Current Review and Decision-Make Authority Table

Listed below are some commonwealth-level legal issues to be aware of:

- 1. By Right Uses.** Certain uses, including facilities to allow for the care of others, must be allowed by right rather than by special use permit.
- 2. Certain Agricultural Activities.** Localities may not require a special exception for certain agriculture activities in agricultural districts (not applicable because there are no Agricultural districts in Town); Va. Code § 15.2-2288.

3. **Residential Uses.** With some exceptions, localities may not require a special use permit as a condition of approval of a subdivision plat, site plan, or building permit for residential dwellings at use, height, and density permitted by right; Va. Code & 15.2-2288.1
4. **Temporary Tents.** Localities may not require a special exception for tents to be used temporarily on private property in certain circumstances; Va. Code § 15.2-2288.2
5. **Cemeteries.** Cemetery structures are not subject to additional local legislative decisions, such as a special exception, if the structure was shown in a legislative approval for a specific cemetery; Va. Code § 15.2-2288.5
6. **Farm Wineries, Limited Breweries, and Limited Distilleries.** Certain regulations of activities of farm wineries, limited breweries, and limited distilleries are prohibited, and other regulations of activities/events designated to market and sell their products must be reasonable; Va. Code § 15.2-2288.3; Va. Code § 15.2-2288.3:1; Va. Code § 15.2-2288.3:2
7. **Manufactured Housing.** Manufactured homes on permanent foundations must be permitted by right in certain districts with agricultural, horticultural or forestal uses, and development standards for residential structures may not exclude manufactured housing; Va. Code § 15.2-2290
8. **Group Homes.** Group homes with no more than 8 persons with mental illness or developmental disabilities must be considered single-family residential occupancy, and localities may not place more restrictions on these homes than on homes occupied by persons related by blood, marriage or adoption; Va. Code § 15.2-2291(A)
9. **Assisted Living Facilities.** Assisted living facilities with no more than 8 aged, infirm or disabled persons must be considered single-family residential occupancy, and localities may not place more restrictions on these homes than on homes occupied by persons related by blood, marriage or adoption; Va. Code § 15.2-2291(B)
10. **Family Day Homes.** Family day homes serving up to 5 children not residing in home must be considered single-family residential occupancy, and localities may not place more restrictions on these homes than on homes occupied by persons related by blood, marriage or adoption; Va. Code § 15.2-2292
11. **Temporary Family Healthcare Structures.** Must be allowed by right in to be used by caregiver in any zoning district permitting single-family detached dwellings if structure is no more than 300 gross square feet and meets statutory prerequisites; Va. Code § 15.2-2292.1
12. **Helicopters.** Localities are prohibited from banning departure and landing of private helicopters; provided, however, a locality may require a special exception; Va. Code § 15.2-2293.2
13. **Political Signs.** Localities may not prohibit political signs on private property if signs are in compliance with restrictions applicable to temporary nonpolitical signs and cannot limit to a certain size different from other categories of temporary signs; Va. Code § 15.2-109
14. **Condominiums.** A zoning ordinance may not prohibit condominiums solely on the basis of ownership and must be treated the same as physically identical projects or developments; Va. Code § 55.1-1905

In addition, there are federal constraints that impact the Town’s ability to regulate development. They are:

1. **U.S. Constitution.** Zoning ordinance may not violate constitutional principles, including, but not limited to freedom of speech, due process, and equal protection.
2. **Dillon’s Rule.** Legal standard adopted in Virginia for determining whether local government was enabled to exercise a power and whether it properly exercised that power.

3. **Preemption.** a federal or state law that preempts a local ordinance, e.g., the Americans with Disabilities Act, is an example of a federal law that preempts or supersedes any local ordinance regulating the same subject matter.

During the Zoning Ordinance update, the consultant team will be mindful of these requirements and constraints on the Town’s authority.

Clarifying the review processes is essential to strike a balance between predictability and flexibility in development. To achieve this goal, several measures and examples can be considered. With the constraints and protections listed above in mind, there are several potential streamlining opportunities within the current procedures:

1. **Decrease Detail in Conceptual Plans.** Consider reducing the level of detail required for Concept Plans during the rezoning stage. For instance, elevation requirements could be waived for developments that do not have identified end users. This adjustment would simplify the initial submittal process and reduce initial risk of the applicant.
2. **Broaden Substantial Conformance.** Broaden the concept of “substantial conformance” to allow for slight changes in building size and orientation without requiring a new or modified application. This flexibility would make it easier for applicants to adapt to evolving project needs.
3. **Landowner-Initiated Text Amendments.** Grant landowners the ability to initiate Text Amendments without the need to file a formal petition with the Town Council. This change would empower property owners to propose amendments that align with their development goals.
4. **Simplify Proffer Amendments.** Incorporate a simple mechanism to amend proffers that does not involve filing another rezoning or special exception application. For instance, consider allowing for the addition of permitted uses to proffers as needs change over time. This would streamline the process of adjusting proffered conditions.
5. **Neighborhood Meetings.** While neighborhood meetings are valuable for community involvement, it's crucial to strike a balance between involving the community and reducing the amount of initial submittal required. Finding the right trade-off can help streamline the process. Legacy Leesburg even has a recommendation that public input be garnered as early as possible in a project.
6. **Completeness Review.** Strengthening the completeness review process is essential. This ensures that applications are submitted with all required information, reducing delays caused by missing or incomplete data; therefore, Town staff is not wasting time reviewing incomplete applications.
7. **Examples of Procedural Streamlining to Consider.**
 - a. For subdivisions with fewer than 50 lots, consider allowing them to skip the preliminary subdivision process, which can save time and resources. This could be incorporated into the upcoming Subdivision and Land Development Regulations update;
 - b. Utilize the combination of preliminary and final processes more frequently to streamline the development review.
 - c. Explore the possibility of concurrent or overlapping rezoning and site plan processes to expedite approvals.
 - d. Expand the number of uses that are minor special exceptions, and therefore go through the review process more quickly than full-blown special exceptions.
 - e. Consolidate the modification language so that it is all in one location in the Zoning Ordinance, rather than in multiple locations. In addition, clearly lay out the modification procedures and standards. Finally, codify some modifications including: Loading spaces, Parking, and Landscaping.

By clarifying and optimizing these review processes, the development and zoning procedures can become more efficient, cost-effective, and responsive to the needs of both the community and applicants.

6. Create a More User-Friendly Document

Incorporate more Tables, Graphics, and Illustrations

Zoning Ordinances are legal documents and inherently technical. That said, modern codes integrate far more graphics, tables, and illustrations to help the user more quickly understand the regulations and to visually convey otherwise complex standards.

- Because the Ordinance will be drafted in enCodePlus, the final product will be uniquely user-friendly. The online digital platform allows users to conduct an advance search of the document, to access regulations through several direct and indirect paths, and quickly view elements of the ordinance that are most commonly viewed.

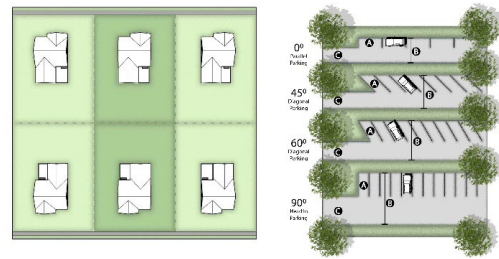


Figure 20 Contemporary Graphics that Illuminate the Text of the Zoning Ordinance



Figure 21 A screenshot from the Littleton, CO, Unified Land Use Code. The table of contents pane on the left panel allows users to quickly navigate to the regulations by Section.

- Development standards are ideal for including more graphics in the Zoning Ordinance. Graphics that not only explain how to comply with the regulations, but also convey the level of quality desired, will go a long way in communicating expectations in Leesburg.
- Some of the graphics and tables in the current Ordinance simply require repackaging to make them more legible, modern, and user-friendly.

Use Clear Language

Throughout the Zoning Ordinance, the language should be of a consistent voice, should be consistent with other sections within the Ordinance, and should avoid using too much planner and attorney jargon.

Reorganize the Ordinance

The Annotated Outline, included as an attachment, demonstrates how we recommend restructuring and reorganizing the Ordinance to consolidate similar information and make it easier for users to find the information they are seeking.