

Background Document
**Amending the Declaration of Covenants, Conditions and Restrictions of the Oakton Mill Estates
Homeowners Association, Inc. Regarding Sheds and Third Car Garages**
As of 10/17/23

Outline:

- I. Overview (p.1)
- II. Shed and Garage requirements in the Oakton Mill Estates HOA Declaration of Covenants, Conditions and Restrictions (p.3)
- III. Relevant Requirements within Declaration of Covenants, Conditions and Restrictions and By-Laws (p.4)
- IV. Process Requirements for Changing Other Sections of the Declaration of Covenants, Conditions and Restrictions (p.4)
- V. Meeting Requirements Set in the By-Laws (p.4)
- VI. Process Requirements for Changing the By-Laws (p.5)
- VII. Other Relevant Sections of the Declaration of Covenants, Conditions and Restrictions (p.5)
- VIII. Additional Details for Each Shed/Garage Question and Amendments to the Declaration (p.6)
- IX. Additional Details for Factors to Consider (p.8)
- X. Proxy Votes (p.10)
- XI. Permit Requirements for Shed Construction (p.10)
- XII. Permit Requirements for Third Car Garage Construction (p.13)

I. Overview:

Background:

At the 12/7/21 Oakton Mill Estates HOA Annual Meeting, HOA Member Lucas Black asked that the Board consider changing the Declaration of Covenants, Conditions and Restrictions of the Oakton Mill Estates HOA to allow free-standing sheds and a third car garage to be built on properties within the HOA. Upon discussion, the Board agreed to raise this topic at the next quarterly Board meeting to which all members of the HOA would be invited to attend.

On May 16, 2022, the Board of Directors and the Covenant Committee conducted an Informational Meeting to gauge the Community's preference regarding the shed and three car garage options that would be included into an amendment to the Declaration. During our HOA's May 16, 2022 shed/garage project informational meeting, the Covenant Committee presented options for the shed/garage project and described how our HOA's Architectural and Environmental Control Committee (AECC) would be involved in the review of a proposed shed/garage exterior modification. An overarching goal of the Board of Directors through this AECC review is to help maintain our community's appearance of harmonious exterior homes.

Since that May 16, 2022 meeting, the Board of Directors has developed two amendments associated with shed and third-car garage construction for voting and consent. The Board has also worked with our HOA attorney to review the basic procedures for amending and recording the Declaration, and has identified two additional provisions in the Declaration that need amendment. These two provisions would amend the

Declaration to provide the Board with the authority to adopt design standards for the construction or installation of an addition to a residence, other structures, and improvements on a Lot, and require lot owners to apply to our HOA's AECC for such exterior modifications. These two additional amendments would allow the Board to adopt construction standards for an exterior shed and a third-car garage, and review plans associated with such construction.

On August 3, 2023, Ed Hanlon, President of the OME HOA Board of Directors, sent an email/ mailing that provides information on an upcoming HOA Special Meeting on September 18, 2023 and relevant documents associated with voting and consent requirements for four proposed amendments to our HOA's Declaration to all OME lot owners who may vote and consent/not consent to these four proposed amendments. Attachment 1 to that email/ mailing provided a consent form for lot owner signature, along with complete and specific language additions/changes/deletions to the Declarations.

On August 22, 2023, Ed Hanlon sent a followup email/ mailing to all OME lot owners who may vote and consent/not consent to these four proposed amendments noting that the Attachment 1 consent form that was sent out on August 3 was revised. Ed's August 22 email/ mailing also noted the date for the special meeting was rescheduled to October 4, 2023

The special meeting occurred on October 4th, and Ed sent an email/ mailing to OME HOA Lot Owners on October 11, 2023 noting all four Amendments received at least 50 yes votes (which constituted approval by at least sixty percent of our HOA's Lot Owners), and therefore all four proposed amendments passed. Our HOA attorney Sara Ross prepared a form for Ed's notarized signature, and next steps are that Sara will record the approved amendments to the Declaration along with the signed Consent Forms in the Land Records of Fairfax County.

At the 10/4/23 special meeting, it was noted that if either or both of the two proposed amendments to allow sheds and a third car garage to be built passed, then Requirements for Construction for those Proposed Amendments would be adopted by the HOA Board. Since both Amendments 1 and 2 passed, the Board will adopt the standards. The Board agreed at the 10/4/23 special meeting to provide HOA Lot Owners an opportunity to review and comment on these construction requirements through a one-month review. These draft construction requirements are posted below on our HOA website for Lot Owner review. **As noted in an email/ mailing from Ed to OME HOA Lot Owners on October 17, 2023, HOA Lot Owners should send any comments they may have on these proposed construction requirements by November 17, 2023 to Ed Hanlon, 2904 Oakton Ridge Circle, Oakton, VA 22124. E.hanlon2@aol.com.**

At an October 11, 2023 Board meeting, the Board and the AECC agreed that the Board should also develop proposed construction requirements for storage attachments and additions to the rear of an HOA home, and storage attachments/enclosures beneath a deck or sunroom in the rear of the home. The Board will consider these proposed construction requirements at a future date.

The Oakton Mill Estates HOA Declaration of Covenants, Conditions and Restrictions (dated and signed October 3, 1984) and By-Laws ('as revised 10/16/20') of the Oakton Mill Estates HOA are available at the following website: <https://www.oaktonhoa.org/documentsminutes>

II. Shed and Garage Requirements in the Oakton Mill Estates HOA Declaration of Covenants, Conditions and Restrictions:

Oakton Mill Estates HOA Declaration of Covenants, Conditions and Restrictions:

The Declaration of Covenants, Conditions and Restrictions (Attachment 2, Schedule B of the Deed of Dedication and Subdivision) notes the following:

- **Requirement 1:**
 - “All lots in the tract shall be known and described as residential lots and no structures shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached, single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than two-cars.”
 - See Article 7 (Restrictive Covenants), Section 1 (p. 10).
- **Requirement 2:**
 - “No structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, outdoor clothes dryer, shed or other buildings shall be erected, used or maintained on any lot at any time.”
 - Article 7 (Restrictive Covenants), Section 8 (p. 11).

By-Laws:

- The By-Laws govern how we operate as a Homeowners Association and include policies and management and administrative practices, many of which are derived from the Declaration of Covenants, Conditions and Restrictions.
- There are no shed or garage requirements specified or referred to within the By-Laws.
- The By-Laws govern how the HOA operates as a nonstock corporation. The By-Laws cover matters including:
 - how often and how the HOA holds meetings;
 - number, nomination, selection, duties, terms of office, resignation and removal, powers, duties, and meetings of the board of directors and its officers;
 - membership voting rights; and
 - formation of committees.

III. Relevant Requirements within Declaration of Covenants, Conditions and Restrictions and By-Laws

- The garage and shed restrictions within certain covenants of the Declaration of Covenants, Conditions and Restrictions can be amended with the written consent of 60% percent of the votes of all HOA lot owners (1 vote per lot) at a (special) meeting called for this purpose.
- Written notice must be sent to all lot owners not less than thirty (30) days nor more than sixty (60) days in advance of the (special) meeting noting the purpose of the meeting.
- At or by the Special Meeting, a brief presentation by the Board of Directors or the Covenant Committee will occur. After this presentation, HOA lot owners may hand in their shed/garage preferences and signed voting/consent forms.
- Any amendment of certain covenants of the Declaration of Covenants, Conditions and Restrictions must be recorded in the land records of Fairfax County.

- HOA Governing Document Citations on Process to Amend Covenants of the Declaration of Covenants, Conditions and Restrictions:
 - See Declaration of Covenants, Conditions and Restrictions, Article 12 (General Provisions), Section 3 (p. 18 and 19).
 - See also Bylaws, Article III, Sections 2, 3, 4 and 5.

IV. Specific Process Requirements Noted in our HOA’s Governing Documents for Changing Sections of the Declaration of Covenants, Conditions and Restrictions:

The Declaration of Covenants, Conditions and Restrictions note the following:

- Attachment 1, Section (12): The Declaration of Covenants, Conditions and Restrictions may be amended with the assent of more than $\frac{3}{4}$ of the entire Class A membership and more than $\frac{3}{4}$ of the entire Class B membership at a meeting called for that purpose. *[Note – the following bullet notes that Article 12 (General Provisions), Section 3 states that sixty percent of the votes of lot owners are needed to change the covenants and restrictions of the Declaration].*
- Current Lot Owner voting:
 - “Amendment. The covenants and restrictions of this Declaration may be amended in whole or in part [with] the consent of the [HOA] and an owner of at least one lot in Oakton Mill Estates. [A]ny amendment shall have the assent of sixty (60%) per cent of the votes of the lot owners, at a meeting duly called for this purpose, written notice of which shall be sent to all lot owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Any amendment must be properly executed and acknowledged (in the manner required by law for the execution and acknowledgement of deeds) by the Association and recorded among the land records of Fairfax County, Virginia.”
 - See Article 12 (General Provisions), Section 3 (p. 18 and 19).
- If any of the first two amendments in the Consent Form receives consent of 60% percent of votes of all HOA lot owners (1 vote per lot), then that amendment’s requirements for construction (posted on the HOA website at <https://www.oaktonhoa.org/portfolio-1>) would be adopted by the HOA’s Board of Directors.
 - Thus, since there are 83 lots owned within the Oakton Mill Estates HOA, $83 \times .6 = 49.8 = 50$. Thus, the owners for 50 lots owners must vote ‘yes’ for an amendment to pass and be accepted. If an amendment is accepted (i.e., the owners for at least 50 lots must vote ‘yes’), then the Declaration of Covenants, Conditions and Restrictions will be amended incorporating that amendment.

V. Meeting Requirements Set in the By-Laws:

- Article 3, Section 2 (p. 2): Special Meetings may be called at any time by the president, by the Board of Directors, or by $\frac{1}{4}$ of lot owners.
- Article 3, Section 4 (p. 2): Votes by at least ten percent of lot owners at a meeting (or by proxy) constitute a quorum for any action, unless otherwise specified within the Declaration of Covenants, Conditions and Restrictions. *[Note – as described above, Article 12 (General Provisions), Section 3 states that sixty percent of the votes of lot owners are needed to change the covenants and restrictions of the Declaration].*

- Article 3, Section 5 (p. 2): “At all meetings of members, each member may vote in person or by proxy. All proxies must be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.”
- *Note: Regarding proxy voting on the three shed/garage questions and on the consent form associated with this Special Meeting, see Section XIV below describing advice by our HOA’s counsel.*

VI. Process Requirements for Changing the By-Laws:

- Article 13, Section 1 (p. 7): The By-Laws may be amended at a regular or special meeting by a vote of the majority of a quorum of members present in person or by proxy.
- Article 13, Section 2 (p. 7): If any conflicts exist between the Articles of Incorporation or the Declaration of Covenants/Conditions/Restrictions and the By-Laws, the Articles of Incorporation shall control.
- *Note: Regarding proxy voting on the three shed/garage questions and on the consent form associated with this Special Meeting, see Section X below describing advice by our HOA’s counsel.*

VII. Other Relevant Sections of the Declaration of Covenants, Conditions and Restrictions:

- Desire of HOA for Permanent Open Space:
 - Schedule B, p. 1, 2nd ‘Whereas’: SMC Corporation and the HOA desire to create a residential community with permanent open spaces.
- No Annoyances or Nuisances to Neighborhood or Members:
 - Article 7 (Restrictive Covenants), Section 1 (p. 10): “No noxious or offensive trade or activities shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or other members.”
- Purpose of Covenants and Restrictions:
 - Schedule B, p. 1, last paragraph: These covenants and restrictions are for the purpose of protecting the value and desirability of the real property within the HOA.
- Voting Rights:
 - Attachment 1, Section (3)(c) (p. 2) of the Declaration of Covenants, Conditions and Restrictions: Internal Affairs, Voting rights:
 - Class A members are every person who owns a lot in the HOA, with only one member per lot getting a vote.
 - Class B members are SMC Greencastle, Inc.*
 - *Note: There appear to no longer be any Class B members, since SMC sold all of the lots and all buildable lots have been developed
- HOA Hiring of Lawyers and Bringing Lawsuits:
 - Article 10 (Powers and Duties of the Association), Section 1(g) (p. 15): The HOA may hire lawyers and bring lawsuits as HOA deems necessary.
- Indebtedness of the HOA:
 - Attachment 1, Section (7) of the Declaration of Covenants, Conditions and Restrictions: The highest amount of ‘indebtedness or liability’ of the HOA shall not exceed 150% of the HOA’s prior year income.
- Special Assessments:
 - Article 6 (Covenants for Maintenance Assessments), Sections 1(b) and 4 (p. 7): The Board may set special assessments for capital improvements or other specified items. 2/3 of votes

in person or by proxy would occur at a meeting called for the purpose of voting on and setting a special assessment.

- Discussion of By-Laws in the Declaration:
 - The only mention of the By-Laws appears to be in Attachment 1, Section 4 (p. 3) of the Declaration of Covenants, Conditions and Restrictions: The number of permanent Board of Directors for the HOA is fixed by the By-Laws.
- HOA Enforcement:
 - Attachment 1, Section 2(a) (p. 1) of the Declaration of Covenants, Conditions and Restrictions: Purpose and Powers: The HOA may enforce the covenants, restrictions, easements, reservations, conditions and other aspects of the Declaration of Covenants, Conditions and Restrictions.
 - See also:
 - Attachment 2, Article 7 (Restrictive Covenants), Section 14 (p. 11) of the Declaration of Covenants, Conditions and Restrictions;
 - Article 10 (Powers and Duties of the Association), Section 1(a) (p. 14) of the Declaration of Covenants, Conditions and Restrictions;
 - Article 12 (General Provisions), Section 1 (p. 18) of the Declaration of Covenants, Conditions and Restrictions;
 - Policy Resolution No. 2008-01 provides the HOA with power and procedures to assess monetary charges against members who are responsible for violating the covenants, conditions and restrictions or the by-laws.

VIII. Additional Details for Amendments to the Declaration:

Outline:

- 1. Question 1: Stand-Alone Shed
- 2. Question 2: Third Car Garage Attached to Home and Located Adjacent and Next to Existing Two Car Garage
- 3. Question 3: Third Car Garage Attached to Home and Located Behind Existing Garage

1. Stand-Alone Shed – Proposed Amendment 1:

Notes:

- This would amend the Declaration of Covenants, Conditions and Restrictions to allow one stand-alone shed to be built behind a home.
- The construction requirements would set a maximum length/width of stand-alone sheds at 125 square feet (e.g., 12.5'x10').
- The maximum height of stand-alone shed would be 14 feet.
- As noted above, with approval of this amendment, the Board would amend the governing documents associated with this amendment, adopt the construction requirements for this shed amendment, and HOA Lot Owners would need to adhere to these construction requirements to build the shed.

2. Third Car Garage Attached to Home and Located Adjacent and Next to Existing Two Car Garage – Proposed Amendment 2:

- As noted above, with approval of Amendment 2, the Board would amend the governing documents associated with this amendment, adopt construction requirements that would apply for building this type of third-car garage, and HOA Lot Owners would need to adhere to these construction requirements to build this type of third-car garage.

Notes:

- This would amend the Declaration of Covenants, Conditions and Restrictions to allow a third car garage to be built that is attached to the home and located immediately adjacent and next to the existing garage. This construction requirements would not allow a third-car garage that is:
 - Detached from the existing home/garage,
 - Behind the existing garage, or
 - Located on the other side of the house from where the existing garage sits.
- The third car garage should be sized to be the similar width of the existing single car garage spaces at the home. An existing single car garage has a 9.6ft wide door and space that is 12ft X 21.75ft =209 ft².
- The third car garage must have the similar exterior architectural design, roofing, brick, siding, and color as the existing two-car garage.
- The third car garage shall have a driveway similar and attached to the existing driveway.
- The slope for the third car garage roof should replicate to the extent feasible the roofline slope of the existing two-car garage; flat roofs are not allowed.

3. Third Car Garage Attached to Home and Located Behind Existing Garage:

- As noted above, with approval of Amendment 2, the Board would amend the governing documents associated with this amendment, adopt construction requirements that would apply for building this type of third-car garage, and HOA Lot Owners would need to adhere to these construction requirements to build this type of third-car garage.

Notes:

- The third car garage must be attached to the home and located behind the existing garage. The construction requirements would not allow a third-car garage that is:
 - Detached from the existing home/garage,
 - Adjacent/immediately next to the existing two-car garage, or
 - Located on the other side of the house from where the existing garage sits.
- The third car garage should be sized to be the similar width of the existing single car garage spaces at the home. An existing single car garage has a 9.6ft wide door and space that is 12ft X 21.75ft =209 ft².
- The third car garage must have the similar exterior architectural design, roofing, brick, siding, and color as the existing two-car garage.
- The slope for the third car garage roof should replicate to the extent feasible the roofline slope of the existing two-car garage; flat roofs are not allowed.

- The garage door opening to the third car garage could either be one of the two existing garage doors (i.e., the third car garage would be in tandem with the existing garage space) or have a separate garage door opening on the side of the home behind the existing garage.
- If the garage door opening to the third car garage is one of the two existing garage doors, the third car garage must be within the same room space of the existing garage, with a portion of the back wall of the garage removed to extend an additional single car space behind an existing single car space.
- If the garage door on the third car garage opens in a direction along the side of the house/garage (i.e., oriented 90 degrees from the two existing garage spaces, with an opening garage door along the side of the house), a driveway/pavement would be required around the side of the house.

IX. Additional Details for Factors to Consider

The Covenant Committee considered a number of factors when developing the shed/garage questions, including those noted below.

Value of Permanent Open Space

- The Declaration of Covenants, Conditions and Restrictions expressed the development's desire to create a residential community with permanent open spaces.
 - See Attachment 2, Schedule B, p. 1, 2nd 'Whereas' of the Declaration of Covenants, Conditions and Restrictions.
 - The wooded 'common areas' provide large areas of permanent, open, wooded, space.
 - Most if not all lots in the development also provide open, unobstructed yard areas.
- Many homes within the HOA tend to be located near property boundaries rather than centered in the lot.
- Open space near homes in another neighborhood has been shown to increase property values by between 2-6%.
 - See <https://www.chescoplanning.org/OpenSpace/ROE-PropertyValue.cfm>
- Covenant Committee searched for but could not find data or information on whether adding a shed or garage increases or decreases value of a home and/or value of all homes within the development.

Need for Storage vs Desire to Limit Eyesore Factor

- A well-constructed, aesthetically pleasing shed and/or third car garage would potentially provide valued and needed enclosed storage space for cars, lawnmowers, seasonal lawn decorations, lawn furniture, bicycles and other sporting equipment, and other common household commodities that otherwise may be an eyesore to a neighbor if stored uncovered (e.g., under a deck).
- Sheds in back yards, not attached to the home, would potentially obstruct views of pristine wooded areas from homes within the HOA.
- A third car garage if located side by side with existing garage may infringe on neighbor's privacy if located close to neighbor's home and within allowable zoning setback distance for such structures (i.e., within 25 feet of property or easement boundary).
- However, a third car garage if located directly behind existing two-car garage (rather than adjacent/next to the existing two-car garage) may negate or lessen potential issues regarding 'eyesore factor' and/or encroachment into County zoning/setback requirements

Sheds Attached to Home – Factors to Consider

- Leaves more open space than a stand-alone shed
 - Complement Declaration of Covenants, Conditions and Restrictions desire to create a residential community with permanent open spaces.
- Consistent open space surrounding homes in the neighborhood may increase the value of homes in the neighborhood.
- May enhance privacy, be more attractive, and be more aesthetically/visually pleasing to neighboring homes than a stand-alone shed.
- Attached sheds could potentially be larger than stand-alone sheds since they would be less visible and already located within a structure.
- Consistent with previous decision-making of the HOA.
- Sheds attached to a home would require county building permit regardless of size, whereas a stand-alone shed would only require county building permit if over 256 square feet in area (e.g., 16' x 16').
- May be more expensive than a stand-alone shed if HOA requires the attached shed to complement the existing home (e.g., no prefabricated sheds allowed; overall design and roof type/shape/angle/color must be similar to the house).
- Fairness issues between properties: 1) location of sheds on different shaped lots; 2) individual lot configurations differ, influencing shed locations; 3) homes located on pipestems and cul-de-sacs have 'different' back and side yards than other homes in the development.

Stand-Alone Sheds – Factors to Consider

- May be less expensive than a shed attached to existing home, if HOA allows stand-alone shed to be prefabricated and/or does not require overall design and roof type/shape/angle/color similar to the home.
- May not require county building permit unless the stand-alone shed is over 256 square feet in area (e.g., 16' x 16').
- Would potentially be safer than a shed attached to the home, since storage of gasoline, other liquid fuels, lawnmowers, chainsaws, weedwhackers and snowblowers could occur away from the home.
- Potentially less open space, less privacy, and less pleasing aesthetics, and more 'eyesore' factor compared to a attached shed.
 - To reduce aesthetic impacts, could require stand-alone sheds to be smaller in size
- Less compatible with Declaration of Covenants, Conditions and Restrictions desire to create a residential community with permanent open spaces.
- Is inconsistent with decision-making history of HOA, which has not allowed stand-alone sheds since the development/HOA was formed.

Third Car Garage - Factors to Consider

- Would allow more space in home for:
 - Less cars visible within the neighborhood.
 - Storage of yard equipment negating the need for a shed.
- Installation of a wheelchair access ramp

- May increase the value of the individual home and/or homes in the neighborhood if constructed in an aesthetically pleasing manner.
- If a third car garage space is allowed to be located directly behind an existing garage may negate potential issues regarding encroachment into County zoning/setback requirements.
- Potential Inequitability/Fairness:
 - Many homes within the HOA tend to be located near property boundaries rather than centered in the lot so **not possible to add** on garage because of County zoning/ setback requirements.
 - Many of our neighbors across Marbury (Rose Creek, etc.) have three car garages incorporated into the original lot/house development and may well add to the overall real estate value. However, the lots in our subdivision were not developed in a way conducive to the construct of three car garages. The presence of septic fields and county setback requirements associated with building modifications as well as the dwelling placement on our existing lots may well limit the feasibility of a three car garage and related value increase.
- Would be inconsistent with decision-making history of HOA, which has not allowed three car garages since the development/HOA was formed.
- Results in less open space and potentially more ‘eyesore’ factor (if inconsistent with existing home design, and/or if located close to neighbor’s home).

X. Proxy Votes:

The Board has agreed on the advice of counsel not to allow proxy votes on the votes and signatures needed related to amendments to our Declaration within the Consent Form.

Counsel noted that regarding the voting to occur on amendments to our HOA’s Declaration, proxy voting in this context is invalid/not allowed for our purposes because the VA Property Owners' Association Act (VA Code, 55.1-1800, *et seq.*) requires lot owners to sign (attest/consent form) to their decision as to whether the Declaration should be changed as proposed, and such lot owner signatures are required on the ballot as a part of the recording.

XI. Permit Requirements for Shed Construction:

Various permit requirements may apply for construction of a shed. The following information on permit requirements that may apply may be incomplete; additional permit requirements may be applicable. Homeowners should contact the County to determine what if any permit requirements are required for shed construction.

- The County regulates the location of all sheds and other freestanding accessory structures and, in some instances, also requires the approval of a building permit.
- Building permits are required for structures that are attached to an existing structure and for detached accessory structures that are over 256 square feet in area. For information on whether a building permit is required, contact the Permit Application Center of the Land Development Services (LDS) at 703-222-0801, TTY 711.
- Additional permits may also be required if electrical, plumbing or HVAC systems are going to be installed in the structure.

- A land disturbance permit may be required even if the shed is below 256 square feet, depending on the size of the disturbance. For more information see the Site-Related Plans publication, Land Disturbance 101 web page at https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/publications/site_related_plans.pdf or call 703-222-0801, TTY 711.
- Setback requirements apply to shed construction. The Fairfax County Zoning Ordinance contains regulations regarding the permitted location for an “accessory structure” such as a shed based on the height of the structure:
 - Yard Definitions:
 - Front yard: A yard extending across the full width of a lot and lying between the front lot line and principal building. Note: Corner lots have two or more front yards.
 - Rear yard: The yard extending across the full width of the lot, lying between the rear lot line and the principal building. On a corner lot, the rear yard is on the opposite side of the building from the front lot line (the shortest street line).
 - Side yard: The yard between the side lot line of the lot and the principal building and extending from the front yard to the rear yard.
 - Please see further description and corner lot example at the top of the following Fairfax Permits page: https://www.fairfaxcounty.gov/code/sites/code/files/assets/documents/pdf/yard_and_lot_determination.pdf
 - Regardless of height, sheds are not permitted in any part of a front yard on any lot, unless the lot exceeds 36,000 square feet, in which case sheds can be located in a front yard; however, the shed must still be located a minimum of 40 feet (the minimum front setback in the R-1 District) from the lot line(s) that abut the street(s).
 - There is no specific size limitation for sheds in the R-1 District; however, in addition to the location regulations in Par. 10 of Sect. 10-104, a shed must meet the definition of an accessory structure, which requires that sheds be subordinate in purpose, area, and extent to the principal dwelling structure on the property.
 - A shed is considered an ‘accessory structure’ within Fairfax County Permit requirements.
 - An accessory structure (i.e., shed) that is 8 ½ feet or less in height may be located anywhere in a side or rear yard.
 - Any shed that exceeds 8.5 feet in height must be located outside the minimum required side yard, which is 20 feet in the R-1 District and must also be located a minimum distance equal to its height from the rear lot line.
 - An accessory structure that is between 8 ½ feet and 12 feet in height must be located at least five feet from the side and rear lot lines.
 - An accessory structure that exceeds 12 feet in height cannot be located closer to the rear lot line than a distance equal to its height and cannot be located closer to the side lot line than a distance equal to the minimum side setback for the lot.
 - The total height of the accessory structure is measured from grade to the highest point of the structure. In instances where there is a slope in grade height is measured from the lowest point of the slope.
 - These and other regulations apply regardless of whether or not a building permit is required. If County easements are present on a lot, no structures may encroach into the ground or air space of the easement.

- Sheds are considered freestanding accessory structures under the Fairfax County permits process. See Section 4102.7.A(5) of Fairfax County Zoning Ordinance, found at pages 293 through 325 of <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/zmod-adopted-ordinance-footnotes.pdf> . See also the statement in Section 5100.2.D(5)(c)(10) on page 348 of this document, which notes: “Accessory structures such as storage sheds, gazebos, and fireplaces located on decks or patios are subject to the freestanding accessory structure regulations in subsection 4102.7.A(5).”
 - Also see Section 4102.7.A(5) of Fairfax County Zoning Ordinance, found at <https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx#secid-553>
 - Also see Section 5100.2.D(5)(c)(10) of Fairfax County Zoning Ordinance, found at <https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx#secid-911>
- The location regulations for sheds are contained in Article 10 of the Fairfax County Zoning Ordinance (Par. 10 of Sect. 10-104), which can be found at: https://images1.loopnet.com/d2/C49_TpLi8lm-3_6AtNVa1dKku6yQ5WY0iFrnhfiU5I4/Fairfax%20County%20Zoning%20%20Article%2010.pdf . Additional discussion on shed requirements in Fairfax County is off their FAQ page at <https://www.fairfaxcounty.gov/planning-development/zoning/faqs>
- Rear Setback Coverage Limitations for Sheds:
 - The following limitations on coverage of the minimum rear setback apply to any accessory structures: The structure may cumulatively cover no more than:
 - 1) 30 percent of the minimum rear setback on any lot located in a conventional residential district;
 - 2) 50 percent of the minimum rear setback on any lot located in a planned district and containing more than 5,000 square feet of land area, unless otherwise specified on an approved development plan or in a proffered or development condition; or
 - 3) 75 percent of the minimum rear setback for a lot located in a planned district and containing no more than 5,000 square feet of land area, unless otherwise specified on an approved development plan or in a proffered or development condition.
 - See page page 294 of <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/zmod-adopted-ordinance-footnotes.pdf> .
- Permit information can be found at: <https://www.fairfaxcounty.gov/landdevelopment/when-permit-required> or by calling Land Development Services (LDS) at 703-222-0801.
- For information to ensure that the shed is in accordance with your lots’ setback, contact the Zoning Permit Review Branch at 703-222-1082, TTY 711.
- Requirements within Virginia Construction Code (VCC) and Virginia Residential Code (VRC):
 - The Virginia Construction Code (VCC) classifies sheds as “Utility and Miscellaneous Group U” structures, but only includes a definition of “Private Garage”. The Virginia Residential Code (VRC) does not define a shed.

- In general, footings for Garages and Sheds are to be constructed in accordance with Section R403 of the VRC just as any other structure. However, footings are not required by the code for structures less than 256 square feet in area when:
 - The building eave height is 10 feet or less
 - The maximum height from the finished floor level to grade does not exceed 18 inches
 - The supporting structural elements in direct contact with the ground are placed level on firm soil and when such elements are wood, they are approved pressure preservative treated suitable for ground contact use
 - The structure is anchored to withstand wind loads in accordance with the code, and
 - The structure is of light-frame construction with vertical and horizontal structural elements primarily formed by a system of repetitive wood or light gauge steel framing members, with walls and roof of light weight material, not slate, tile, brick or masonry.
- In general, the bottom of footings for structures are required to be below the local frost depth. An exception in VRC Section 403.1.4.1 provides an exception to this requirement for structures less than 600 square feet in area. Footings for structures 256-600 square feet in area must still meet the minimum depth of 12 inches below grade in accordance with VRC Section 403.1.4.
- Anchoring of sheds is required by the VCC regardless of the size, type of structure, or exemption from application for permit. For sheds less than 256 square feet in area and are anchored directly to the ground, auger type or strap type anchors installed in accordance with the manufacturer's installation instructions are generally acceptable. In many cases, anchoring can be designed and installed prescriptively in accordance with VRC Section R403.1.6. For structures where alternative anchoring methods are utilized, there may be a need for wind loading and/or uplift analysis.
- <https://www.fairfaxcounty.gov/landdevelopment/when-permit-required>
- <https://www.fairfaxcounty.gov/planning-development/zoning/faqs>

XII. Permit Requirements for Third Car Garage Construction:

Various permit requirements apply for construction of a third car garage addition. The following information on permit requirements that may apply may be incomplete; additional permit requirements may be applicable. Homeowners should contact the County to determine what if any permit requirements are required for construction of a third car garage addition.

- See <https://www.fairfaxcounty.gov/landdevelopment/additions-garages-and-sunrooms>
- Building permits are required by the County for structures that are attached to an existing structure. For information on whether a building permit is required, contact the Permit Application Center of the Land Development Services (LDS) at 703-222-0801, TTY 711.
- Additional permits may also be required if electrical, plumbing or HVAC systems are going to be installed in the structure.
- A land disturbance permit may be required depending on the size of the disturbance. For more information see the Site-Related Plans publication, Land Disturbance 101 web page at

https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/publications/site_related_plans.pdf or call 703-222-0801, TTY 711.

- **Setback requirements:** The distance from any proposed addition to the property lines is regulated by the setback requirements for the zoning district and any applicable proffered or development conditions or development plan.
 - As noted on Fairfax County’s zoning map website (search by address), homes within Oakton Mill Estates are zoned R-1C (R-1 w/Cluster Dev).
 - See Fairfax County’s zoning map website at:
<https://icare.fairfaxcounty.gov/ffxcare/search/commonsearch.aspx?mode=address>
 - Construction of structures (i.e., with roofs attached to the home) within our zoned R-1C development must be at least 25 feet from the rear property boundary or easement, and at least 20 feet from the side property boundary or easement, in order to follow the normal building permitting process for construction on residential property.
 - See Section 5100.2.D within Fairfax County Zoning Ordinance, on pages 340 through 360 of <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/zmod-adopted-ordinance-footnotes.pdf>
 - See Section 5100.2.D within Fairfax County Zoning Ordinance, also available on <https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx#secid-246>
 - See also page 19 of <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/zmod-adopted-ordinance-footnotes.pdf>
 - Construction of structures with roofs where the base of the structure is between 12.5 and 25 feet from the rear property boundary or easement, or between 10 and 20 feet from the side property boundary or easement, require a special permit.
 - See Section 5100.2.D.11.e.2 of Fairfax County Zoning Ordinance, found at page 357 of <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/zmod-adopted-ordinance-footnotes.pdf> which notes that for special permits: “The required setback must not be reduced by more than 50 percent, as measured from the lot line to the closest point of the proposed structure.” See also Section 5100.2.D.11.e.2 of Fairfax County Zoning Ordinance, found at <https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx#secid-246>
 - The special permit application is complex and has many steps; it is available at <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning/special%20permit%20process/specialpermit-applicationpackage.pdf>
 - General information on the special permit process:
<https://www.fairfaxcounty.gov/planning-development/zoning/special-permit-process>
 - Construction of structures with roofs where the base of the structure is between 0 and 12.5 feet from the rear property boundary or easement, or between 0 and 10 feet from the side property boundary or easement, require a variance.
 - General information on the special permit process:
<https://www.fairfaxcounty.gov/planning-development/zoning/variance-process>

- The variance application is complex and has many steps; it is available at <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning/variance/variance-application-package.pdf>
- <https://www.fairfaxcounty.gov/planning-development/zoning>