CODE

County of

YORK, VIRGINIA

GENERAL ORDINANCES OF THE COUNTY

Adopted October 16, 1996

Effective October 16, 1996

Published by Order of the Board of Supervisors

OFFICIALS

of the

COUNTY OF YORK, VIRGINIA

AT THE TIME OF THIS CODIFICATION

James W. Funk
Chairman

Walter C. Zaremba
Sheila S. Noll
Albert R. Meadows
Jere M. Mills
Supervisors

Daniel M. Stuck
County Administrator

William M. Hackworth
County Attorney

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Courts and Board Room, York County District Courts Building, Yorktown, Virginia, on the 16th day of October, 1996:

Present	Vote
James W. Funk, Chairman	Yea
Walter C. Zaremba, Vice Chairman	Yea
Sheila S. Noll	Yea
Albert R. Meadows	Yea
Jere M. Mills	Yea

On motion of Mrs. Noll, which carried 5:0, the following ordinance was adopted:

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE COUNTY OF YORK, VIRGINIA; ESTABLISHING THE SAME; PROVIDING FOR THE MANNER OF AMENDING AND SUPPLEMENTING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE

BE IT ORDAINED by the York County Board of Supervisors this the 16th day of October, 1996, that:

Section 1. The Code of the County of York, adopted February 4, 1982, as amended through October 16, 1996, consisting of Chapters 1 to 24.1, each inclusive, is hereby adopted and enacted as the "Code of the County of York, Virginia."

Section 2. All provisions of such Code shall be in full force and effect from and after October 16, 1996. The provisions appearing in this Code, so far as they are the same as those of the ordinances in the Code of the County of York adopted February 4, 1982, as amended, shall be considered as continuations thereof and not as new enactments.

Section 3. Any person convicted of a violation of such Code shall be punished as prescribed in Section 1-10 thereof, or as provided in any other applicable section of such Code.

Section 4. Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Board of Supervisors to make the same a

part of such Code, shall be deemed to be incorporated in such Code, so that reference to such Code shall be understood and intended to include such additions and amendments.

Section 5. In case of the amendment of any section of such Code for which a penalty is not provided, the general penalty, as provided in Section 1-10 of such Code shall apply to the section as amended, or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 6. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 7. This ordinance, and the Code adopted hereby, shall become effective on October 16, 1996.

A Copy Teste:

Mary E. Simmons
Deputy Clerk

PREFACE

This Code constitutes a complete recodification of the ordinances of York County, Virginia, of a general and permanent nature. As expressed in the Adopting Ordinance, the Code supersedes all such ordinances not included herein or recognized as continuing in force by reference thereto.

The chapters of the Code are arranged in alphabetical order, and the sections within each chapter are catchlined to facilitate usage. Source materials used in the preparation of the Code were the 1982 York County Code and ordinances subsequently adopted by the Board of Supervisors.

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two component parts separated by a dash, the figure before the dash representing the chapter number, and the figure after the dash indicating the position of the section within the chapter. Thus, the first section of chapter 1 is numbered 1-1, and the ninth section of chapter 2 is 2-9. Under this system, each section is identified with its chapter, and, at the same time, new sections or even whole chapters can be inserted in their proper places simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between section 4-2 and 4-3 is desired to be added, such new sections would be numbered 4-2.1, 4-2.2, and 4-2.3, respectively. New chapters may be included in the same manner. If the new material is to be included between chapters 12 and 13, it will be designated as chapter 12.5. Alphabetical arrangement of chapters will be maintained when including new chapters. New articles and new divisions will be included in the same way or, in the case of articles, will be placed at the end of the chapter embracing the subject; and, in the case of divisions, will be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Loose-leaf Supplements

Upon final passage of amendatory ordinances, supplement pages will be properly edited, and the page or pages affected will be reprinted. These new pages will then be distributed to holders of copies of the Code with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such amendment, when incorporated into the Code, will be cited as a part thereof, as provided in the adopting ordinance.

CODE OF THE COUNTY OF YORK, VIRGINIA

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CODE OF THE COUNTY OF YORK

Chapter 1

GENERAL PROVISIONS

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Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of the County of York, Virginia," and may be so cited. Such Code may also be cited as the "York County Code."

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the board of supervisors:

Generally. The rules of construction given in sections 1-13.1 to 1-15, Code of Virginia, shall govern, so far as applicable, the construction of all words not defined in this section or elsewhere in this Code.

Board of Supervisors; board. Wherever the term "board of supervisors" or "board" is used, it shall be construed to mean the board of supervisors of the County of York.

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Code. Wherever the term "Code" or "this Code" is used, without further qualification, it shall mean the Code of the County of York, Virginia, as designated in section 1-1.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

County. The word "county" shall mean the County of York in the State of Virginia.

County Administrator. Whenever the term "county administrator" is used, it shall mean the county administrator or his designee.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Health department. The term "health department" shall mean the department of the public health of the county.

Health officer. The term "health officer" shall mean the legally designated health authority of the state board of health for the county or his authorized representative.

Joint authority. Words purporting to give authority to three (3) or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and things; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an

affirmation may be substituted for an oath.

Officers, boards, etc. Whenever reference is made to a particular officer, department, board, commission or other agency, such reference shall be construed as if followed by the words "of the County of York, Virginia."

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight savings time, whichever may be in current use in the county.

Or, and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirely of the whole or a part of such building or land.

Person. The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

Preceding; following. The words "preceding" and "following" mean next before and next after, respectively.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature or *subscription* includes a mark when a person cannot write.

State; commonwealth. The words "state" and "commonwealth" shall be construed as if the words "of Virginia" followed.

State Code and state regulations. References to the "State Code" or "Code of Virginia" shall mean the Code of Virginia, 1950, as amended. Whenever this code incorporates, by reference, any state statute or regulation into an ordinance, the incorporation by reference shall include any future amendments to the referenced state statute or regulations, unless contrary intent is specifically stated in the ordinance.

Street; highway; road. The words "street," "highway" and "road" shall include public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the county, and shall mean the entire width thereof between abutting property lines. Such words shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the board of supervisors.

Swear; sworn. The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed' in all cases in which, by law, an affirmation may be substituted for an oath.

Tense. Words used in the past or present tense include the future as well as the past and present.

Written or *in writing* shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall be construed to mean a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord."
(Ord No. 03-1, 1/21/03)

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of the Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the ordinances included herein shall be considered as continuations thereof and not as new enactments.

Sec. 1-5. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

(a) Any ordinance promising or guaranteeing the payment of money by or for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness or any contract or obligation assumed by the county;

(b) Any ordinance granting any franchise or right;

(c) Any ordinance appropriating funds, making assessments, levying or imposing taxes or relating to an annual budget;

(d) Any ordinance relating to salaries, compensation or bonds of county employees and officials or members of county boards or commissions;

(e) Any ordinance authorizing, providing for or otherwise relating to any public improvement;

(f) Any ordinance adopted for purposes which have been consummated; or

(g) Any ordinance which is temporary, although general in effect, or special, although permanent in effect;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-6. Code does not affect prior offenses, rights, etc.

Nothing in this code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgement rendered, on or before the effective date of this Code.

Sec. 1-7. Supplementation of the Code.

(a) By contract or by county personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board of supervisors. A supplement to the Code shall

include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may;

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and title for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-8. Copies of Code and supplements to be available for public inspection.

At least three (3) copies of this Code and every supplement thereto shall be kept in the office of the county administrator and shall there be available for public inspection, during normal business hours.

Sec. 1-9. Severability of parts of Code.

If any part, section, subsection, sentence, clause of phrase of this Code is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code.

Sec. 1-10. Classification of and penalties for violations; continuing violations.

(a) Whenever in this Code or any other ordinance of the county or any rule or regulations

promulgated by any officer or agency of the county, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3, or 4 misdemeanor, such violation shall be punished as follows:

(1) *Class 1 misdemeanor.* By a fine of not more than two thousand five hundred dollars ($2,500.00), or by confinement in jail for not more than twelve (12) months, or by both such fine and confinement.

(2) *Class 2 misdemeanor.* By a fine of not more than one thousand dollars ($1,000.00) or by confinement in jail for not more than six (6) months, or by both such fine and confinement.

(3) *Class 3 misdemeanor.* By a fine of not more than five hundred dollars ($500.00).

(4) *Class 4 misdemeanor.* By a fine of not more than two hundred and fifty dollars ($250.00).

Provided, however, that no fine or term of confinement for any such violation shall exceed the penalty provided by general law for the violation of a like offense.

(b) Whenever in any provision of this Code or in any other ordinance of the county or any rule or regulation promulgated by an officer or agency of the county, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class I misdemeanor and be punished as prescribed in subsection (a)(1) above.

(c) For violations of the Code sections listed below, the penalty shall consist of a civil penalty as is set out in the table contained in this subsection. Any person summoned or issued a ticket for a violation of this Code listed in this subsection may make an appearance in person or in writing by mail to the County Treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established in this subsection for the offense charged, in lieu of criminal sanctions. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as is provided by law.

DESCRIPTION OF OFFENSE	CODE SECTION	CIVIL PENALTY
1. Failure to obtain dog license	4-45	$25 for 1st offense; $50 for each subsequent offense
2. Failure to exhibit dog license or kennel license on request	4-52	$20 for 1st offense; $40 for each subsequent offense
3. Failure to display dog license tag on a dog	4-53	$20 for 1st offense; $40 for each subsequent offense

4. Failure to inoculate cat or dog against rabies	4-69 (a),(b)	$50 for 1st offense; $75 for each subsequent offense
5. Allowing dog or other domesticated animal in public area without being properly caged, crated, or leashed	17-55	$10
6. Allowing dog or other domesticated animal to be in public eating place, or on a swimming or bathing beach	17-55	$25
7. Allowing a dog or other animal to discharge excrement in a public area without properly removing and disposing of the same	17-55	$25
8. Allowing a dog or other domesticated animal within such portion of a public area from which such animals shall have been prohibited	17-55	$25

(d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

Sec. 1-11. Jurisdiction of violations of Code and other ordinances.

The general district court of the county shall have exclusive original jurisdiction for the trial of cases arising under this Code and other ordinances of the county.

Sec. 1-12. Disposition of fines.

The judge of the general district court shall remit all fines collected consequent upon violation of this Code or any ordinance of the county to the county treasurer, who shall place the same to the credit of the general fund of the county.

Sec. 1-13. Court costs—Assessment; disposition.

The judge of the general district court of the county, in the trial of any person charged with a violation of this Code or other ordinance of the county, shall assess such costs as are allowed by general law in misdemeanor cases and dispose of the same as provided by law. In the event of costs incurred in cases where a conviction is not had, any officer who is entitled to fees, and who has costs assessed in his favor, shall render bills therefor to the board of supervisors, which when duly approved, shall be paid as other county bills are paid.

Sec. 1-14. Same—Assessment upon civil actions to fund law library; exceptions.

The sum of two dollars ($2.00) is hereby assessed as a part of court costs incident to each civil action filed in the county circuit court or in the county general district court, which shall be collected by the clerks of the respective courts and remitted to the county treasurer to be held by him, subject to disbursement by this board for the acquisition of law books and law periodicals, and for the establishment, use, maintenance and operation of a law library, which shall be open for the use of the public; provided, however, that such assessment shall not apply to any action in which the Commonwealth of Virginia or any political subdivision thereof or the federal government is a party, and in which the costs are assessed against any of them.
(Ord. No. 00-5, 5/16/00; Ord. No. 00-11, 7/18/00)

Sec. 1-14.1. Same—Assessments for civil and criminal convictions for the Funding of Courthouse Security Personnel.

Pursuant to Code of Virginia section 53.1-120, the sum of ten dollars ($10.00) is hereby assessed as part of the costs in each criminal and traffic conviction in the district courts or circuit court of York County in which the defendant is convicted of any statute or ordinance, for the purpose of funding courthouse security personnel, or if requested by the sheriff, for equipment and other personal property used in connection with courthouse security. The assessment shall be collected by the clerk of court in which the case is heard and remitted to the treasurer of the County of York, Virginia, to be held by the treasurer subject to appropriation by the board of supervisors to the sheriff's office.
(Ord. No. 02-20, 10/15/02; Ord. No. 03-7, 3/18/03; Ord. No. 04-21, 8/3/04; Ord. No. 07-6, 5/15/07)

Sec. 1-14.2. Same—processing fee upon admission to county or regional jail following a conviction

A processing fee of twenty-five dollars ($25.00) shall be assessed by the district courts and circuit court of York County on any individual admitted to a county or regional jail following conviction in such court. Such fee shall be ordered as a part of court costs collected by the clerk of the court in which the conviction occurred and deposited into the account of the county treasurer. The treasurer shall hold such funds in a separate account subject to disbursement by the board of supervisors to the sheriff's office to defray the costs of processing arrested persons into the local or regional jails.
(Ord. No. 03-7, 3/18/03)

Sec. 1-15. Unclaimed property in possession of sheriff.

(a) *Definitions.* For the purposes of this section "unclaimed personal property" or "unclaimed property" shall mean any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner, and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (section 55-210.1 et seq., Code of Virginia).

(b) *Disposal of unclaimed property; procedures:*

(1) Any unclaimed personal property which has been in the possession of the sheriff's department and unclaimed for more than sixty (60) days shall be sold. Such sale shall be in accordance with the provisions of subsection (b)(2) below.

(2) Prior to the sale of any unclaimed property, the sheriff or his duly authorized agent shall:

a. Make reasonable attempts to notify the rightful owner of the property;

b. Obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution; and

c. Cause to be published, in a newspaper of general circulation in the county, once a week for two (2) successive weeks, notice that there will be a public sale of unclaimed personal property. Such property shall be described generally in the notice, together with the date, time and place of the sale.

(c) *Proceeds from disposition of unclaimed personal property:*

(1) Proceeds of any sale conducted pursuant to paragraph (b) above shall be used to pay the costs of advertisement and notice of such sale, costs of removal and storage of the unclaimed property, and costs of investigation as to ownership of and liens on the unclaimed property. The balance of the funds shall be held by the sheriff for the owner and paid to the owner upon satisfactory proof of ownership.

(2) If no claim has been made by the owner for the proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the county. Any such owner shall be entitled to apply to the county within three (3) years from the date of the sale. If timely application is made therefor, the county shall pay the remaining proceeds of the sale to the owner without interest or other charges. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds after three (3) years from the date of the sale.

Sec. 1-16. Assessment for courthouse construction, renovation or maintenance.

(a) *Amount and disposition of assessments.* Beginning on August 1, 1992, there shall be assessed, as part of the fees taxed as costs in each civil, criminal or traffic case in a district or circuit court for York County or Poquoson, the sum of two dollars ($2.00). Such assessment shall be collected by the clerk of the court in which the action if filed and submitted to the county treasurer to be held by such treasurer subject to disbursements by the board of supervisors for the construction, renovation or maintenance of the courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

(b) *Assessments additional to other fees.* The assessment provided for herein shall be in addition to any other fees prescribed by law.

CODE OF THE COUNTY OF YORK

Chapter 2

ADMINISTRATION*

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ARTICLE I. IN GENERAL

Sec. 2-1. Abolition of finance board; vesting of authorities of finance board.

The finance board provided for in section 58-940, Code of Virginia, is hereby abolished and all authorities, powers and duties of the finance board shall henceforth be vested in the board of supervisors.

Sec. 2-2. Fee for passing bad check to county.

Any person who utters, publishes or passes any check or draft, for payment of taxes or any other sums due the county, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, shall pay to the county a fee of thirty-five dollars ($35.00), in addition to the amount of such check or draft.
(Ord. No. 098-11, 8/5/98; Ord. No. 04-29, 1/18/05)

Sec. 2-3. Personnel policy and pay plan for county employees.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance establishing, amending or otherwise relating to any personnel policy and pay plan for county employees, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 2-3.1 Off-duty employment by deputy sheriffs.

(a) Deputy sheriffs may engage in off-duty employment which may require the use of their police powers in the performance of such employment.

(b) The sheriff shall have the authority to promulgate reasonable rules and regulations applicable to off-duty employment of deputy sheriffs.
(Ord. No. 02-11, 7/16/02)

Sec. 2-4. Authority to obtain criminal history record information.

(a) Whenever in the course of investigations of applicants who have been selected for public employment it is necessary in the interest of the public welfare or safety to determine if the past criminal conduct of the applicant is compatible with the nature of the employment, or when the provisions of this Code require the disclosure of criminal history information by an applicant, or the applicant's employees, in order for some privilege to be granted by the county or when such Code requires a criminal history record check of an applicant, or the applicant's employees, the county administrator or his designee (who shall be a County governmental employee) shall be authorized to obtain the criminal history record of such applicant, or such applicant's employees, from the Virginia Central Criminal Records Exchange or other appropriate sources.

(b) The county administrator or his designee is specifically authorized pursuant to the provisions of Section 19.2-389 (A) (7), Code of Virginia, to request from the Virginia Central Criminal Records Exchange the criminal history record of any applicant who has been selected for public employment whose anticipated duties or responsibilities would require (i) access to public records or to personal information as defined in Section 2.1-379, Code of Virginia, (ii) accountability for public funds, (iii) access to county supplies, (iv) entry into secured areas outside of working hours, (v) right of entry onto private property, or (vi) child care or assistance to the elderly or disabled. The applicant shall submit to fingerprinting and shall provide the county administrator or his designee with personal descriptive information to be forwarded along with the applicant's fingerprints through the Virginia

Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information regarding the applicant.

(c) The criminal history record information provided in accordance with this section shall be used solely to assess eligibility for public employment or service, or for the permit applied for, and shall not be disseminated to any person not involved in the assessment process. If an applicant is denied employment because of information appearing in his criminal record history, the county administrator or his designee shall notify the applicant that information from the Virginia Central Criminal Records Exchange contributed to such denial.

(Ord. No.O97-29, 11/5/97; Ord No. 03-18(R), 6/17/03; Ord. No. 03-30, 8/19/03; Ord. No. 03-45, 12/16/03)

Secs. 2-5—2.20. Reserved.

ARTICLE II. ORDINANCES

Sec. 2-21. Numbering.

All ordinances of the county shall, as enacted, be consecutively numbered in annual series, the number of a particular ordinance to consist of the year in which passed and the consecutive number of the ordinance.

Sec. 2-22. Ordinance book—Generally.

The county administrator shall enter in a book copies of all ordinances passed by the board of supervisors. The book in which ordinances are thus entered shall be known as the "Ordinance at Large of the County of York, Virginia" and shall be indexed.

Sec. 2-23. Same—Notation of amending or repealing ordinances.

The county administrator shall write on the first page of every ordinance entered in the book mentioned in section 2-22 of this article, if the same has been amended or repealed, as the case may be, the words "amended" or "repealed," with a reference to the page of the ordinance book where the amending or repealing ordinance can be found.

Sec. 2-24. Repeal not to revive former ordinances.

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Secs. 2-25—2-34. Reserved.

ARTICLE III. COUNTY ADMINISTRATOR

Sec. 2-35. General duties.

The county administrator shall perform all the duties set forth within the terms of section 15.2-1541, Code of Virginia, and such other duties as may be prescribed by the board of supervisors.

(Ord. No. 04-29, 1/18/05)

Sec. 2-36. Payment of claims.

(a) The county administrator is hereby authorized to pay such claims, as he may have audited and found

valid, against those funds under the control of the board of supervisors to which the board of supervisors has, by resolution, made an appropriation.

(b) The county treasurer is hereby authorized to honor such warrants as the county administrator may issue to pay claims from the funds so appropriated and set aside; provided such warrants meet other conditions relating to warrants imposed by the Code of Virginia.

(c) Warrants issued and payments made pursuant to this section shall be reported to the board of supervisors at its next regular meeting and approved by such board.

Secs. 2-37—2-46. Reserved.

ARTICLE IV. INDUSTRIAL DEVELOPMENT AUTHORITY

Sec. 2-47. Created; powers.

There is hereby created a political subdivision of the Commonwealth of Virginia with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act (chapter 49, title 15.2, Code of Virginia), including such powers as may hereafter be set forth from time to time in such act.
(Ord. No. 04-29, 1/18/05)

Sec. 2-48. Name.

The name of the political subdivision of the Commonwealth created hereby shall be the Economic Development Authority of York County, Virginia.
(Ord. No. 04-27, 11/16/04)

Secs. 2-49—2-50. Reserved.

ARTICLE V. LIBRARY BOARD

Sec. 2-51. Established; composition; qualifications; appointment and terms of members.

There is hereby established, pursuant to Chapter 2 of Title 42.1 of the Code of Virginia, a board, to be known as the York County Library Board of Trustees. The County's library system, including such branches and substations as may be established, shall be under the control and management of the library board, except that any library buildings shall continue to be owned by the board of supervisors. The library board may contract with the board of supervisors for the provision of such administrative and financial support as both boards deem appropriate. Such board shall consist of five (5) members, who shall be qualified voters of the county and shall be selected from the county at large by the board of supervisors. Three (3) of the members of the board first appointed shall serve for terms of one (1) year, two (2) years and three (3) years, and two (2) of the members shall serve for terms of four (4) years. Subsequent appointments shall be for terms of four (4) years each. The members of the board shall serve without compensation, but shall be reimbursed for necessary expenses actually incurred. The term of office of the members first appointed shall begin on January 1, 1977. The members shall hold office during their respective terms and until their successors are elected and qualified. Vacancies on the board shall be filled by the board of supervisors for the remainder of the unexpired term.
(Ord. No. 00-19, 11/21/00)

CODE OF THE COUNTY OF YORK

Chapter 3

AMUSEMENTS*

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*Cross references—License taxes for various amusement, Ch. 14; public areas, Ch. 17.

ARTICLE I. IN GENERAL

Sec. 3-1. Certain motion pictures not to be visible to traveling public.

It shall be unlawful and a Class I misdemeanor for any person in charge or control of a drive-in theater to screen or permit the screening of motion pictures classified by the motion picture industry as being suitable for display to adult audiences only in such theater where such motion pictures are visible to the traveling public from a highway, street or other public way within the county.
Cross references— Obscene motion pictures, §§ 15.5-4, 15.5-9.

Secs. 3-2—3-20. Reserved.

ARTICLE II. PUBLIC DANCE HALLS*

DIVISION 1. GENERALLY

Sec. 3-21. Definitions.

For the purposes of this article, the following words and terms shall have the meanings ascribed to them in this section:

Proprietor. A person owning or leasing a building where public dancing is held or any person conducting a public dance.

Public Dance Hall. Any place open to the general public where dancing is permitted.
*Cross reference--License tax for dance halls, §14-26.

Sec. 3-22. Purpose of article.

To protect the public interest and general welfare and to ensure that places of public assembly which are known and operate as dance halls are safe and suitable for such public assembly, the board of supervisors hereby establishes the regulations set out in this article for public dance halls, as authorized by section 18.2-433, Code of Virginia.

Sec. 3-23. Violation of article.

Any person violating any provision of this ordinance shall be guilty of a class 3 misdemeanor.

Sec. 3-24. Exemptions from article.

Dances conducted for benevolent or charitable purposes or dances conducted under the auspices of religious, educational, civic or military organizations shall be exempt from the provisions of this article.

Sec. 3-25. Operating hours.

Any dance hall permitted hereunder shall remain open only between the hours of 6:00 p.m. and 1:00 a.m. on weekdays and between the hours of 6:00 p.m. and 12:00 midnight on Saturday, except that the county administrator may extend operating hours one hour earlier and/or one hour later for any day which precedes or falls within a legal holiday or a day which is not followed by a day on which the public schools of the county are to be operated on a regular basis.

Secs. 3-26—3-28. Reserved.

DIVISION 2. PERMIT

Sec. 3-29. Term and renewal of permit.

Any permit issued under this article shall expire one (1) year after its issuance, but shall be renewed by the county administrator from year to year upon written request of the applicant, which request shall state that such applicant remains eligible for such permit in accordance with the requirements set forth in this article.

Sec. 3-30. Required; existing permits.

It shall be unlawful for any person to operate a public dance hall unless a current, unrevoked permit so to do has been issued pursuant to this division; provided, however, that dance halls operating under a valid permit issued prior to the adoption of the ordinance from which this division is derived may continue to operate so long as:

(a) Conditions set forth in the original permit are met.

(b) There is no enlargement of the premises or other change in conditions of operation.

(c) The permit is not revoked for reasons set forth in this division.

Any application for renewal or reinstatement of any such existing permit shall be subject to the requirements of this division.

Sec. 3-31. Submission and contents of application; license tax.

An application for a public dance hall permit shall be made by the proprietor of the proposed public dance hall and shall be submitted to the county administrator. The application shall include:

(a) The name and address of the person proposing to operate the public dance hall.

(b) The name and address of the owner of the property.

(c) A floor plan of the proposed public dance hall showing the seating arrangement, the area to be used for dancing and all exitways.

(d) A site plan of the property showing ingress and egress to the property and provision for on-site parking.

(e) A remittance of fifty dollars ($50.00), as a license tax, which is hereby imposed for the operation of every dance hall.
Cross references—Licenses generally, Ch. 14.

Sec. 3-32. Approval or disapproval of application.

The county administrator shall, within thirty (30) days of receipt of a complete application, along with reports from the fire marshal and the code compliance supervisor, act to approve or disapprove the application, but shall not approve the application unless and until:

(a) The fire marshal has certified that the building meets all applicable requirements of the state and county fire regulations;

(b) The code compliance supervisor has certified that the building and site and the proposed use thereof meet all applicable requirements of the Virginia Uniform Statewide Building Code and the county zoning ordinance;

(c) The county sheriff shall have reported that the applicant has no known record of having committed a felony or other crime involving moral turpitude.

Sec. 3-33. Issuance.

Upon review of an application for a public dance hall permit, the county administrator shall issue a permit for the operation of the public dance hall to the proprietor if he shall have conformed to the requirements of this article and of all other applicable laws.

Sec. 3-34. Limited to facilities described in application; enlargement or alteration requires approval.

A permit issued under this division for a public dance hall shall be limited to the facilities described in the application. Any enlargement or alteration to the premises or other change in condition shall require approval by the board of supervisors.

Sec. 3-35. Not transferable.

Public dance hall permits shall not be transferable.

Sec. 3-36. Revocation.

Conviction of the proprietor of any public dance hall of a violation under title 4, Code of Virginia, or of any regulations of the State Alcoholic Beverage Control Board or any provision of this article shall automatically revoke the permit issued for the public dance hall, and no permit so revoked shall be reinstated for the same permittee or to any firm, corporation or association owned or controlled by such permittee except upon approval by the board of supervisors upon such reasonable conditions as it shall impose. The county administrator may also revoke any permit for any alleged violation of law, including any provision of this article; provided, however, that no such revocation shall be effective for more than thirty (30) days unless it shall have been affirmed by the board of supervisors after fourteen (14) days notice to the proprietor and an opportunity to be heard thereon. Procedure for reinstatement of the permit shall be the same as for the approval of a new permit.

Secs. 3-37—3-46. Reserved.

ARTICLE III. MUSICAL OR ENTERTAINMENT FESTIVALS

DIVISION 1. GENERALLY

Sec. 3-47. Defined.

For the purposes of this article, the term "musical or entertainment festival" or "festival" shall mean any gathering of groups or individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted in open spaces not within an enclosed structure.

Sec. 3-48. Basis, purpose and construction of article.

(a) This article is enacted pursuant to section 15.2-1200, Code of Virginia, for the purpose of providing necessary regulation of musical or entertainment festivals conducted in open spaces not within an enclosed structure and of any gathering or groups of individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted in open spaces not within an enclosed structure, in the interest of public health, safety and welfare of the citizens and inhabitants of the county.

(b) The provisions of this article shall be liberally construed in order to effectively carry out the purpose thereof in the interest of the public health, welfare and safety of the citizens and residents of the county.

Sec. 3-49. Violations of article.

Any person who violates any provisions of this article shall be guilty of a Class 2 misdemeanor. The board of supervisors may bring suit in the circuit court of the county to restrain, enjoin or otherwise prevent a violation of this article.

Sec. 3-50. Time limit.

Music shall not be rendered nor entertainment provided for more than twelve (12) hours in any twenty-four-hour period, such twenty-four-hour period to be measured from the beginning of the first performance at any festival.

Sec. 3-51. Certain minors to be accompanied by parent or guardian.

No person under the age of fourteen (14) years shall be admitted to any festival unless accompanied by a parent or guardian, the parent or guardian to remain with the underage persons at all times.
Cross reference—Curfew for minors, §§ 16-2—16-4.

Secs. 3-52—3-56. Reserved.

DIVISION 2. PERMIT

Sec. 3-57. Required.

No person shall stage, promote or conduct any musical or entertainment festival in the unincorporated areas of the county without first obtaining a permit so to do issued in accord with this division.

Sec. 3-58. Application—Generally.

Application for a permit under this division shall be in writing, on forms provided for the purpose, and filed, in duplicate, with the county administrator at least sixty (60) days before the date of the festival. Such application shall have attached to and made a part of the plans, statements, approvals and other documents required by this division.

Sec. 3-59. Plans, statements, etc., to accompany application.

No permit shall be issued under this division unless the following conditions are met and the following items, plans, statement and approvals are submitted to the board of supervisors with the application for the permit:

(a) A copy of the ticket or badge of admission to the festival, containing the date or dates and time or times of the festival, together with a statement by the applicant of the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance.

(b) A statement of the name and address of the promoters of the festival, the financial backing of the festival and the names of all persons or groups who will perform at the festival.

(c) A statement of the location of the proposed festival, the name and address of the owner of the property on which the festival is to be held and the nature and interest of the applicant therein.

(d) A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the health officer.
Cross references—Sewage disposal and sewers, Ch. 18.1; solid waste, Ch. 19.

(e) A plan for providing food, water and lodging for the persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the health officer.

(f) A plan for adequate medical facilities for persons at the festival, approved by the health officer.

(g) A plan for adequate parking facilities and traffic control in and around the festival area.
Cross reference—Motor vehicles and traffic, Ch. 15.

(h) A plan for adequate fire protection. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the fire chief.
Cross reference—Fire prevention and protection, Ch. 11.

(i) A statement specifying whether any outdoor lights or lighting are to be utilized, and if so, a plan showing the location of such lights and shielding devises or other equipment to prevent unreasonable glow or glare beyond the property on which the festival is located.

(j) A statement that no music shall be played, either by mechanical device or live performance, in such a manner that the sound emanating therefrom shall be unreasonably audible beyond the property on which the festival is located.
Cross reference—Excessive noise, § 16-19.

Sec. 3-60. Applicant to furnish written permission for entry on premises.

No permit shall be issued under this division unless the applicant shall furnish to the board of supervisors written permission for the board, its lawful agents and duly constituted law-enforcement officers to go upon the property where the festival is conducted at any time for the purpose of determining compliance with the provisions of this article.

Sec. 3-61. Board action on application; grant or denial.

The board of supervisors shall act on an application filed pursuant to this division at its next regular meeting after receiving a recommendation from the county administrator, provided the board has received the same at least three (3) days prior to the meeting. If granted, the permit shall be issued in writing, on a form provided for the purpose, and mailed by the county administrator to the applicant at the address indicated. If denied, the denial shall be in writing with the reasons for such denial stated therein, and mailed by the county administrator to the applicant at the address indicated in the application.

Sec. 3-62. Revocation.

The board of supervisors shall have the right to revoke any permit issued under this article upon noncompliance with any of its provisions and conditions.

Secs. 3-63—3-69. Reserved.

CODE OF THE COUNTY OF YORK

Chapter 4

ANIMALS AND FOWL*

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ARTICLE I. IN GENERAL

Sec. 4-1. Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

Sec. 4-2. Definitions

(a) "Animal" means any nonhuman vertebrate species except fish. For purposes of Article IV. of this chapter, animal means any species susceptible to rabies. For purposes of Section 4-5, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

(b) "Animal yard" means a tract or parcel of land or part thereof, enhanced or not, used to contain or maintain livestock, or land upon which livestock is permitted to roam, free or tethered. The term "animal yard" shall include a pasture.

(c) The following terms are as defined in Code of Virginia Section 3.2-6500:

(1) "Abandon"
(2) "Companion Animal"
(3) "Dump"
(4) "Kennel"
(5) "Livestock"
(6) "Other Officer"
(7) "Owners"
(8) "Poultry"
(9) "Sore"
(10) "Weaned"

(d) "Stable" means a structure constructed, designed or used for the sheltering or housing of livestock.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Sec. 4-3. Animal control officer—Generally.

(a) There is hereby created and established the position of animal control officer. The animal control officer shall be appointed by the board of supervisors. The board may appoint one (1) or more deputy animal control officers to assist the animal control officer with enforcement of all county ordinances and state laws enacted for animal control and protection. The animal control officer and any deputy animal control officers shall have all authority granted to such officers by the Virginia Comprehensive Animal Care Laws, Chapter 65 of Title 3.2 of the Code of Virginia. The animal control officer and the deputy animal control officers shall be paid as the county board of supervisors shall prescribe.

(b) The animal control officer and deputy animal control officer shall have a knowledge of and shall enforce the provisions of this chapter and all ordinances of the county and laws of the state enacted for animal control and protection.

(c) Whenever the term "animal control officer" is used in this chapter, it shall mean the animal control officer appointed pursuant to this section or any duly appointed deputy animal control officer.

(d) Nothing in this section shall be construed to prevent the issuance of a warrant for any violation of this chapter based upon the complaint of any citizen or any law enforcement officer and upon a finding of probable cause by an officer authorized to issue arrest warrants generally.

(e) Every animal control officer and deputy animal control officers shall complete the following training: Within two years after appointment, a basic animal control course that has been approved by the State Veterinarian which shall include training in recognizing suspected child abuse and neglect and information on how complaints may be filed, and thereafter shall complete such additional training as may be required by the Code of Virginia.
(Ord. No. 03-19, 6/17/03; Ord. No. 04-17, 8/3/04; Ord. No. 09-2, 2/17/09)

Sec. 4-4. Animals or fowl trespassing or running at large on highways.

It shall be unlawful for any person to cause or permit any animal or fowl owned or managed by, or under the control of, such person to trespass upon any land not owned or managed by, or not under the control of, such person, or to cause or permit any animal or fowl owned or managed by, or under the control of, such person to run at large upon any public highway within the county, whether such highway be enclosed by a fence or not. Any person who causes or permits any exotic or poisonous animal to run at large may be required to pay a fee to cover the actual cost in locating, capturing and/or otherwise disposing of the animal. Actual costs in locating, capturing and/or otherwise disposing of the animal include any medical costs incurred by any county employee who is injured and/or envenomed during the process of locating, capturing and/or otherwise disposing of the animal. For purposes of this section, "exotic animal" means any animals other than a companion animal, cattle, horses, sheep, goats, swine, enclosed domesticated rabbits or hares, domestic fowl and games birds raised in captivity.
(Ord. No. 00-1(R), 3/1/00; Ord. No. 03-19, 6/17/03)

Sec. 4-5. Cruelty to animals.

(a) Any person who:

(1) Overrides, overdrives, overloads, tortures, illtreats, abandons, willfully inflicts inhumane injury or pain, not connected with a bona fide scientific or medical experimentation, upon or cruelly or unnecessarily beats, maims, mutilates or kills, any animal, whether belonging to himself or another, or deprives any animal of necessary sustenance, food, drink or shelter, or emergency veterinary treatment; or

(2) Sores any equine for any purpose or administers drugs or medications to alter or mask such soring for the purpose of sales, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; or

(3) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or

(4) Carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering; or

(5) Causes any of the above things, or being the owner of such animal permits such acts to be done by another;

shall be guilty of a Class I misdemeanor.

(b) Nothing in this section shall be construed to prohibit the dehorning of cattle done in a reasonable and customary manner.

(c) In addition to the penalties provided in subsection (a), the court may, in its discretion, require any person convicted of a violation of this section to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

(d) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under the Code of Virginia, including Title 29.1, or to lawful farming activities.

(e) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation may be prosecuted under state law as a Class 6 felony pursuant to Code of Virginia section 3.2-6570 (E).

(f) Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.
(Ord. No. 03-19, 6/17/03; Ord. No. 03-26, 8/5/03; Ord. No. 09-2, 2/17/09)

Sec. 4-6. Abandoning domestic animal in public place or on property of another.

No person shall abandon or dump any animal. Violation of this section shall be punishable as a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to an approved animal shelter or other releasing agency.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Sec. 4-7. Disposal of dead companion animals.

(a) The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury or sanitarily dispose of the same. If, after notice, any owner fails to do so, the animal control officer or other officer shall bury or cremate the animal and the control officer or other officer may recover, on behalf of the county, the cost of this service.

(b) Any person, animal control officer or other officer euthanizing a companion animal under this chapter shall cremate, bury or sanitarily dispose of the same.

(c) When the owner of any animal or grown fowl, other than companion animal, which has died knows of such death, such owner shall forthwith have its body cremated or buried, or request such service from an officer or other person designated for the purpose and, if he fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal or fowl so cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, and a reasonable fee to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Sec. 4-8. Leaving disabled or dead animal in road or allowing dead animal to remain unburied.

If any person casts any dead animal into a road or knowingly permits any dead animal to remain unburied upon his property when offensive to the public or having in custody any maimed, diseased, disabled or infirmed animal leaves it to lie or be in a street, road or public place, he shall be guilty of a Class 3 misdemeanor.
(Ord. No. 03-19, 6/17/03)

Sec. 4-9—4-16. Reserved.

ARTICLE II. LIVESTOCK

Sec. 4-17. Article does not authorize violation of zoning ordinance; conflicts with other ordinances.

Nothing in this article shall authorize the use of land for the raising or keeping of livestock in conflict with the provisions of the county zoning ordinance. In case of conflict between any terms, provision or requirement of this article with that of any other ordinance or regulation, the stricter interpretation shall prevail
Cross reference—Zoning ordinance, Ch. 24.1.

Sec. 4-18. Location of stable near abutting property or public road.

No stable or housing for livestock shall be constructed or located within one hundred feet (100') of any abutting property owned or occupied by a person other than the owner or occupant of the property on which such stable or housing is located, nor within one hundred feet (100') of a public highway or road.

Sec. 4-19. Keeping not to be detrimental to use of adjacent property.

No person shall utilize any stable, pasture or animal yard for the keeping of livestock in any manner that is detrimental to the use of adjacent property or that, because of odor, noise or attraction of flies or other pests, reduces or otherwise unreasonably restricts the rights of adjacent property owners to enjoy the use of their property.

Sec. 4-20. Keeping near wells; pollution of streams, etc.

(a) All stables, pastures or other areas or enclosures used to keep livestock shall comply with all applicable standards of the Virginia Administrative Code and the Virginia Department of Health concerning separation from active wells and the protection of wells from drainage or runoff from such areas.

(b) No person shall permit the drainage from any animal yard, pasture or stable to contaminate or pollute any stream, watercourse or drainage way, natural or manmade.

(Ord. No. 14-3, 2/4/14)

Sec. 4-20.1. Boundary lines and streams declared to be fences as to livestock.

The boundary line of each lot or tract of land and any stream in the county are declared to be, and the same shall be henceforth, a lawful fence as to any and all livestock domesticated by man.

Sec. 4-21. Storage or accumulation of manure.

No person shall store, stockpile or permit any accumulation of manure or livestock waste in any manner whatsoever that, due to odor, attraction of files or other pests or for any other reason, diminishes the rights of adjacent property owners to enjoy reasonable use of their property.

Sec. 4-22. Use of manure as fertilizer.

(a) Manure spread or broadcast on bona fide agricultural lands for the purpose of fertilizing such lands shall be turned under or buried.

(b) Manure used as fertilizer in landscaping, home gardens or spread upon land for any other reason shall be turned under or buried within twenty-four (24) hours.

Secs. 4-23—4-32. Reserved.

ARTICLE III. DOGS

DIVISION I. GENERALLY

Sec. 4-33. Definitions.

For the purpose of this article, and unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Dangerous dog. Any canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or

companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

Treasurer. Includes the treasurer of the county and his assistants or other officer designated by law to collect taxes in the county.

Vicious dog. Any canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.
(Ord. No. 03-19, 6/17/03; Ord. No. 06-7, 6/27/06; Ord. No. 09-2, 2/17/09)

Sec. 4-34. Dogs and cats deemed personal property; rights relating thereto.

(a) All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. "Owners," as defined in section 4-2 of this chapter, may maintain any action for the killing of any such animals, or injury thereto, or unlawful detention or use thereof, as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in any appropriate action at law from such person.

(b) The animal control officer or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to the law, shall have the authority to seize and hold such animal pending action before the general district court or other court. If no such action is instituted within seven (7) days, the animal control officer or other officer shall deliver the dog or cat to its owner. The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of such premises, and the animal control officer may take such animal in charge and notify its legal owner to remove it. The legal owner of the animal shall pay five dollars ($5.00) per day or any part of a day, or such other sum as may be prescribed by the board of supervisors, for the keep of such animal while impounded.
(Ord. No. 03-19, 6/17/03)

Sec. 4-35. Running at-large generally—Prohibited.

(a) Is shall be unlawful for the owner or custodian of any dog to allow such dog to run at-large within the county at any time during any month of any year.

(b) For the purpose of this section, a dog shall be deemed to run at-large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits his dog to run at-large, or remain unconfined, unrestricted or not penned up, shall be deemed to have violated the provisions of this section.

Sec. 4-35.1. Diseased dogs and dogs in season.

It shall be unlawful and shall constitute a Class 4 misdemeanor for the owner or custodian of any dog with a contagious or infectious disease or any dog that is in season to stray from his premises if such condition is known to the owner or custodian.

Sec. 4-36. Dogs running at-large—Impoundment and disposition.

(a) Any dog found running at-large without the tag required by section 4-53 or in violation of section 4-35

of this article shall be apprehended by the animal control officer or other officer and placed in a pound meeting the requirements of the Code of Virginia. All drugs and drug administering equipment used by animal wardens or other officers to capture dogs shall have been approved by the state veterinarian.

(b) A dog impounded under this section shall be kept for a period of not less than five (5) days, such period to commence on the day immediately following the day the dog is initially confined, unless sooner claimed by the rightful owner thereof. The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty-eight hours following its confinement.

(c) If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be charged with the actual expenses incurred in keeping the animal impounded.

(d) If a dog confined pursuant to this section has not been claimed upon expiration of the appropriate holding period as provided by subsection (b), it shall be deemed abandoned and become the property of the pound. The dog may be euthanized or disposed of as permitted by any applicable provision of Code of Virginia section 3.2-6546.

(e) No provision of this section shall prohibit the euthanasia of a critically injured, critically ill or unweaned animal for humane purposes.

(f) Any animal euthanized pursuant to the provisions of this section shall be euthanized by one of the methods prescribed by or approved by the state veterinarian.

(g) Prior to disposition by euthanasia, or otherwise, all the provisions of this section shall have been complied with.

(h) In the event that the county has contracted with any other entity to maintain a pound enclosure, then, in addition to any fees specified in this section, the person claiming the impounded animal shall pay all applicable fees charged by the entity maintaining the pound enclosure.

(i) The payment of any fees provided for in this section shall not relieve the owner of his liability for any violation of section 4-35 of this article.

(j) For purposes of this section, "rightful owners" means a person with a right of property in the animal.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Sec. 4-37. Dangerous and vicious dogs.

(a) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the county for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The County or the Commonwealth shall be required to prove its case beyond a reasonable doubt.

(b) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog, or a vicious dog.

(c) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(d) The owner of any animal found to be dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control officer or treasurer for a fee of fifty dollars in addition to other fees that may be authorized by law. The animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

(e) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, (ii) that the animal has been neutered or spayed, and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least $100,000 that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least $100,000.

(f) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(g) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia § 3.2-6542, within 45 days of such a finding by a court of competent jurisdiction.

The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(h) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon

learning of same, cause the animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(i) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person; or

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

(3) Class 1 misdemeanor if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(j) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

(k) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the County for the purpose of paying the expenses of any training course required under Code of Virginia § 3..2-6556.

(Ord. No. 03-19, 6/17/03; Ord. No. 06-7, 6/27/06; Ord. No. 09-2, 2/17/09)

Sec. 4-38. Dogs killing or injuring livestock or poultry.

(a) It shall be the duty of the animal control officer or other officer, when he finds a dog in the act of killing or injuring livestock or poultry, to kill such dog forthwith, whether such dog bears a tag or not, and any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight, as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian or harborer of the dog to produce the dog.

(b) If the animal control officer has reason to believe that any dog is killing livestock or poultry, he shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section.

(c) If the animal control officer or any other person has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, he shall apply to a magistrate of the county, who shall issue a warrant requiring the owner or custodian of the dog, if known, to appear before the general district court at a time and place named therein, at which time evidence shall be heard and, if it shall appear that such a dog is a livestock killer, or has committed any of the depredations mentioned in this section, the dog shall be (i) ordered killed immediately, which the animal control officer, or other officer designated by the judge of the court to act, shall do, or (ii) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

(d) Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry, not to exceed four hundred dollars ($400.00) per animal or ten dollars ($10.00) per fowl; provided, that the claimant has furnished evidence within sixty (60) days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog; the animal control officer or other officer shall have been notified of the incident with seventy-two (72) hours of its discovery; and the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied. Upon payment under this section, the board of supervisors shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

(e) It is a Class 1 misdemeanor for any person to present a false claim or to receive any money on a false claim under this section.

(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Secs. 4.39—4-44. Reserved.

DIVISION 2. LICENSE

Sec. 4-45. Required.

It shall be unlawful for any person to own a dog four (4) months old or over in this county unless such dog is licensed as required by the provisions of this division. A violation of this section shall be punished by imposition of a civil penalty as is set out in section 1-10 of this Code.

Sec. 4-46. Application; applicant must be county resident.

(a) Any person may obtain a dog license by making oral or written application to the treasurer, accompanied by the amount of the license tax and the certificate of vaccination required by section 4-69 of this article, or evidence satisfactory to the treasurer that such certificate has been obtained. The treasurer shall have authority to license only dogs of resident owners or custodians who reside within the boundary limits of this county and may require information to establish the location of the residence of any applicant.

(b) It shall be unlawful for any person to make a false statement in, or present any false evidence with, an application submitted under this section, in order to secure a dog license to which he is not entitled.

(Ord. No. 06-7, 6/27/06)

Sec. 4-47. Tax imposed.

(a) An annual license tax on the ownership of dogs within the county is hereby imposed in the following amounts:

(1)	Male, female and spayed or neutered dogs	$ 5.00
(2)	Kennel of not more than 10 dogs	15.00
(3)	Kennel of not more than 20 dogs	20.00
(4)	Kennel of not more than 30 dogs	25.00
(5)	Kennel of not more than 40 dogs	30.00
(6)	Kennel of not more than 50 dogs	35.00

(b) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing-impaired person or that is trained and serves as a service dog for a mobility-impaired person. As used in this subsection, the term "hearing dog" means a dog trained to alert its owner, by touch, to sounds of danger and sounds to which the owner should respond, and the term "service dog" means a dog trained to accompany its

owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.
(Ord. No. 03-19, 6/17/03)

Sec. 4-48. When tax due and payable.

The license tax imposed on individual dogs by section 4-47 of this article shall be due and payable not later than thirty (30) days after a dog has reached the age of four (4) months, or not later than thirty (30) days after an owner acquires a dog four (4) months of age, and each year thereafter. Any kennel license tax imposed by section 4-47 shall be due on January 1 and shall be paid not later than January 31 of each year.
(Ord. No. 06-7, 6/27/06; Ord. No. 09-2, 2/17/09)

Sec. 4-49. Failure to pay tax when due.

If shall be unlawful and shall constitute a Class 4 misdemeanor for any person to fail to pay the dog license tax when the same is due. In addition, the court may order confiscation and proper disposition of the dog. Payment of the license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided for such failure.

Sec. 4-50. Concealing or harboring a dog on which tax not paid.

It shall be unlawful for any person to conceal or harbor any dog on which the license tax has not been paid in accord with this division.

Sec. 4-51. Issuance, composition and contents of license.

(a) Upon receipt of a proper application and the prescribed license tax, the treasurer shall issue a dog license; provided that no such license shall be issued for any dog, unless there is presented to the treasurer a certificate of vaccination, or other evidence satisfactory to the treasurer that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian or a currently licensed veterinarian technician who was under the immediate and direct supervision of a licensed veterinarian on the premises issued pursuant to section 4-69 of this article in accord with the provisions of such section. Upon issuance of the license, the treasurer shall make notation of the date of issuance of the license on the certificate of vaccination or other document, and return the certificate or other document to the applicant. It shall be unlawful for any person to present a certificate of vaccination for a dog other than that for which it was issued.

(b) Each dog license shall consist of a license tax receipt and a metal tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and address of the owner or custodian of the dog, the date of payment, the year for which issued, the serial number of the tag and whether the license is issued for a male, or a female, whether spayed or neutered, or for a kennel. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the county and the calendar year for which issued and shall bear a serial number.

(c) The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. The treasurer may establish substations in convenient locations in the county and appoint agents for the collection of the license tax and issuance of such licenses.
(Ord. No. 03-19, 6/17/03; Ord. No. 06-7, 6/27/06)

Sec. 4-52. Preservation and exhibition of license receipt; posting of kennel license receipt.

Dog license receipts and kennel license receipts shall be carefully preserved by the owner or custodian of the dog licensed. Dog license receipts shall be exhibited promptly on request for inspection by the animal control officer or other officer. Kennel receipts shall be securely fastened to the kennel enclosure for which the license was issued, and one of the identification plates provided therewith shall be attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to any dog animal control officer or other officer upon receipt.

A violation of this section shall be punished by imposition of a civil penalty as is set out in section 1-10 of this Code.
(Ord. No. 03-19, 6/17/03)

Sec. 4-53. Tag to be worn by dog; exceptions.

(a) Dog license tags shall be securely fastened by the owner or custodian to a substantial collar and worn by such dog. The owner or custodian of the dog may remove the collar and license tag when the dog is engaged in lawful hunting, when the dog is competing in a dog show, when the dog has a skin condition which would be exacerbated by the wearing of a collar, when the dog is confined or when the dog is under the immediate control of its owner.

(b) Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and, in any proceedings under this division, the burden of proof of the fact that the dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

(c) A violation of this section shall be punished by imposition of a civil penalty as is set out in section 1-10 of this Code.

Sec. 4-54. Unlawful removal of tag.

It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or custodian.

Sec. 4-55. Duplicate tags.

If a dog license tag shall become lost, destroyed or stolen, the owner or custodian of the dog with reference to which the tag was issued shall at once apply to the treasurer for a duplicate license tag, presenting the original license receipt.

Upon affidavit of the owner or custodian before the treasurer that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag shall be one dollar ($1.00).

Sec. 4-56. Record of licenses sold.

The treasurer shall enter, in a dog license sales record book, containing original and duplicate sheets, the date of sale of dog licenses, including kennel licenses, the names and addresses of persons to whom sold, and the serial numbers and the amount of the license tax paid. The treasurer shall deliver to the animal control officer, on or before the fifth day of each month, the original sheets from his dog license sales record book of all persons who bought dog tags during the previous month.
(Ord. No. 03-19, 6/17/03)

Sec. 4-57. Disposition of funds.

(a) Unless otherwise provided by ordinance of the board of supervisors, the treasurer shall deposit all money collected by him for dog license taxes in a separate account from all other funds collected by him. Such funds shall be used for the following purposes:

(1) The salary and expenses of the animal control officer and necessary staff;

(2) The care and maintenance of a dog pound;

(3) The maintenance of a rabies control program;

(4) Payments as a bounty to any person neutering or spaying a dog up to the amount of one (1) year of the license fee set forth in section 4-47 of this article;

(5) Payments for compensation as provided in section 4-38(d) of this article; and

(6) Efforts to promote sterilization of dogs and cats.

(b) Any part or all of any surplus remaining in such account on December 31 of any year may be transferred by the board of supervisors into the general fund of the county.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Sec. 4-58. Disposition of unsold tags.

As soon as practicable after December thirty-first of each year, the treasurer shall prepare a list of all unsold dog license tags of that calendar year and, upon request, shall present such list to the county administrator or to any auditors retained by the county to review the county's financial records. Following the acceptance by the board of supervisors of the county's audit report, the treasurer may destroy all such unsold license tags.
(Ord. No. 03-19, 6/17/03)

Secs. 4-59—4-68. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 4-69. Inoculation of cats and dogs.

(a) It shall be unlawful for any person to own, keep, possess, board or harbor any cat or dog over the age of four (4) months within the county, unless such cat or dog has been inoculated against rabies by a currently licensed veterinarian or by a licensed veterinarian technician who was under the immediate and direct supervision of a licensed veterinarian on the premises, and the term of effectiveness of such inoculation has not expired.

(b) Any person bringing a cat or dog into the county from another jurisdiction shall conform to this section within ten (10) days after bringing such cat or dog into the county.

(c) At the time of inoculation as required by this section, a certificate of inoculation shall be issued to the owner. Such certificate shall at a minimum show the signature of the veterinarian, the animal owner’s name and address, the species of the animal, the sex, the age, the color, the primary breed, the secondary breed, whether or not the animal is spayed or neutered, the vaccination number, the expiration date, and the locality in which the owner resides.

(d) A violation of any provision of this section shall be punished by imposition of a civil penalty as is set out in section 1-10 of this Code.
(Ord. No. 03-19, 6/17/03; Ord. No. 06-7, 6/27/06)

Sec. 4-70. Report of existence of rabid animal.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

Sec. 4-71. Emergency ordinance requiring confinement or restraint of dogs or cats when rabid animal at-large.

When there is a sufficient reason to believe that a rabid animal is at-large, the board of supervisors shall have the power to pass an emergency ordinance, that shall become effective immediately upon passage, requiring owners of all dogs and cats in the county to keep the same confined on their premises, unless

leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten thereby. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed thirty (30) days, unless renewed by the board of supervisors. It shall be unlawful for any person to violate the provisions of any such ordinance.
(Ord. No. 03-19, 6/17/03)

Sec. 4-72. Confinement or destruction of dogs or cats showing signs of or suspected of having rabies.

Any dog or cat found within the county showing active signs of rabies or suspected of having rabies shall be forthwith taken into custody by the animal control officer or other officer and confined under competent observation for such time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog or cat shall be euthanized by one of the methods approved by the state veterinarian.
(Ord. No. 03-19, 6/17/03)

Sec. 4-73. Destruction or confinement of dog or cat bitten by rabid animal.

Any dog or cat for which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six (6) months at the expense of the owner; however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the state veterinarian. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, with proof of a valid rabies vaccination shall be revaccinated immediately following the bite and shall be confined to the premises of the owner, or other site as may be approved by the local health department, for a period of forty-five (45) days.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/17/09)

Sec. 4-74. Confinement or destruction of animal which has bitten person.

(a) The owner or keeper of any animal that has bitten any person shall immediately confine it in a substantial and satisfactory enclosure, meeting the approval of the health director, and he shall forthwith notify the animal control officer or the health officer, giving the name and address of the person bitten, if known to him, and the location of the confined animal. At the discretion of the director of the health department, such animal shall be quarantined under the observation of the health director and the animal control officer for a period of ten (10) days, unless the animal develops active symptoms of rabies or expires before that time, during which time of confinement it shall not be permitted to leave the enclosure. At the end of such quarantine period, the animal control officer may permit the animal to be released from confinement if, in his opinion, it is not vicious, provided the court has not ruled upon the question to the contrary.

(b) Notwithstanding the above provisions, a seriously injured or sick animal may be humanely euthanized by one of the methods approved by the state veterinarian and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services or the local health department for evaluation.
(Ord. No. 03-19, 6/17/03; Ord. No. 09-2, 2/1709)

Sec. 4-74.1 Animals other than dogs and cats; exposing other animals to rabies; exposure to rabies.

(a) When any animal other than a dog or cat exposes or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of a local health director in a manner approved by the health department or humanely euthanized by a method approved by the state veterinarian and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services or the local health department for evaluation.

(b) When any animal other than a dog or cat is exposed to rabies through a bite, or through saliva or central nervous system tissue in a fresh wound or mucous membrane by an animal believed to be afflicted with rabies, that newly exposed animal shall be confined at the discretion of a local health director in a manner approved by the health department or humanely euthanized by a method approved by the state veterinarian.

(Ord. No. 09-2, 2/17/09)

Sec. 4-75. Concealing or harboring animal to prevent its destruction or confinement under article.

It shall be unlawful for any person to conceal or harbor any dog or other animal to keep the same from being destroyed or confined in accord with this article.

CODE OF THE COUNTY OF YORK

Chapter 5

AUTOMOBILE GRAVEYARDS AND JUNKYARDS*

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*Cross reference—License tax, Ch. 14; solid waste, Ch. 19.

ARTICLE 1. IN GENERAL

Sec. 5-1. Authority.

Pursuant to the authority provided under section 15.2-903 of the Code of Virginia, the following provisions are established to regulate the maintenance and operation of automobile graveyards and junkyards in the County of York. The provisions of this article shall apply to any automobile graveyard or junkyard existing as of June 19, 2007, and to any established subsequently pursuant to the terms of Chapter 24.1, Zoning, of this Code.
(Ord. No. 07-10(R), 6/19/07)

Sec. 5-2. Definitions.

For the purposes of this chapter the following words and terms shall have the meanings ascribed to them in this section:

Automobile graveyard. Any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind that are incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

Junkyard. An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard.

Motor vehicle. Any motor vehicle as defined by section 46.2-100 of the Code of Virginia.

Visible. Capable of being seen, without visual aid, by a person of normal visual acuity.
(Ord. No. 07-10(R), 6/19/07)

Sec. 5-3. Application of and compliance with chapter.

It shall be unlawful for any person, alone or in connection with any other business, to maintain or operate an automobile graveyard or junkyard in the county, except upon compliance with the provisions of this chapter, which are hereby declared to apply to all automobile graveyards and junkyards maintained or operated within the county.
(Ord. No. 07-10(R), 6/19/07)

Sec. 5-4. Violations of chapter.

Any person, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this chapter shall be guilty of a Class 3 misdemeanor.
(Ord. No. 07-10(R), 6/19/07)

Sec. 5-5. Record of purchases; inquiry as to right of seller to make sale.

Any person maintaining or operating an automobile graveyard or junkyard shall keep at his place of business a book or a computer database in which a record shall be kept of the day and time of each purchase, the name and residence, as well as the race, age and height of the person selling and actually delivering any vehicle, parts or accessories purchased, the amount of the purchase price, the make, state license number, motor number, body number, style and seating capacity of the vehicle purchased and the make and identifying

numbers of radiators, speedometers and magnetos purchased, together with such other information concerning such property as may be necessary to prove ownership or identity of vehicles, parts or accessories purchased. Diligent inquiries shall also be made as to the legal right of the seller to make such sale. If the above-required records are kept in a computer database system, it shall be in a format capable of being printed for County inspection.
(Ord. No. 07-10(R), 6/19/07)

Sec. 5-6. Inspections.

All automobile graveyards and junkyards, together with the records required by section 5-5 of this article, shall at all times be kept open for inspection to all officers of the county having police powers.

Sec. 5-7. Screening requirements.

(a) Pursuant to the authority provided under section 15.2-903 of the Code of Virginia, automobile graveyards or junkyards located in the County of York, regardless of the date on which any such automobile graveyard or junkyard may have come into existence and notwithstanding the provisions of section 33.1-348 of the Code of Virginia, shall be screened by natural objects, plantings, fences, or other appropriate means so as to ensure that any junk or inoperable vehicles shall not to be visible from the main-traveled way of any highway, street or road. For the purposes of compliance with the screening requirements established herein, the term inoperable vehicle shall be deemed to include any vehicle that has deflated tires, body damage rendering it incapable of being driven, missing wheels, tires, doors, hoods, trunk lids, fenders, major body panels or roofs, or missing or removed window glass

(b) Such screen shall be nontransparent, shall be a minimum of eight (8) feet in height measured from ground level at its base and of uniform height along its entire length. The screen shall be composed of one or more of the following materials, or such other materials or combinations thereof:

(1) Salt-treated or creosote-treated pine, cedar, cypress or similar decay resistant material.

(2) Protected metals, such as Teflon-coated steel, anodized aluminum or similar materials.

(3) Composite materials such as cementious planks, vinyl or PVC, or similar materials.

(4) Masonry construction such as brick, glazed terra-cotta or painted cinder block.

(5) Evergreen plantings, eight (8) feet in height at the time of installation, and of sufficient density and quantities to provide an immediate visual buffer.

(c) Fences shall be constructed in accordance with all applicable requirements of chapter 24.1, zoning, relative to the “finished side.”

(d) The walls of a building may be used to form a part of the screen required by this section provided, however, that the display or storage of goods thereon shall be prohibited.

(e) The contents of the automobile graveyard or junkyard shall not be placed or deposited to a height greater than the height of the plantings, fence or other screening methods used to comply with the terms of this section.

(f) The screening required by this section shall be maintained in good repair, and any damaged or deteriorated materials and/or dead plantings shall be reconstructed, repaired or replaced as necessary so as to provide and maintain the permanent visual screen.

(g) Notwithstanding the foregoing, automobile graveyards or junkyards that are established on or after June 19, 2007, or which otherwise shall fall within the application of County Code section 24.1-476, shall comply with the screening requirements imposed by that section.

(Ord. No. 07-10(R), 6/19/07)

Sec. 5-8. Fire extinguishers and other safety devices.

Safety devices, such as fire extinguishers or other like apparatus, shall be provided at such locations within automobile graveyards and junkyards as deemed necessary by the fire official to comply with applicable provisions of the Statewide Fire Prevention Code.

(Ord. No. 07-10(R), 6/19/07)

Sec. 5-9. Open fires.

No open fires that would constitute a violation of the state air pollution control laws or a hazard to adjoining properties, for the burning of rubbish, trash, automobiles or any part thereof, or other waste matter, shall be permitted on the premises of an automobile graveyard or junkyard. An accidental or casual fire occasioned by the use of any acetylene torch shall not be regarded as open fire under this section, where it is shown that the person operating or maintaining the automobile graveyard or junkyard has, by the use of fire extinguishers or other safety devices, made reasonable effort to prevent the same.

(Ord. No. 07-10(R), 6/19/07)

Sec. 5-10. Gasoline and other combustible material to be drained from vehicles.

All tanks and engines of inoperable vehicles in an automobile graveyard or junkyard shall be kept thoroughly drained of gasoline and other combustible material.

(Ord. No. 07-10(R), 6/19/07)

Sec. 5-11. Mosquito control.

All tanks, engines, automobile parts, receptacles and other containers capable of holding water or any source of stagnant water whatever, where mosquitoes may breed, located at an automobile graveyard or junkyard, shall be kept thoroughly drained and dry.

(Ord. No. 07-10(R), 6/19/07)

Secs. 5-12—5.22. Reserved.

ARTICLE II. SCREENING

Sec. 5-23. General requirements and exceptions.

To protect the use and development of abutting and adjacent property, a screen of hardy evergreen vegetation or an earthen berm, or any combination of either, shall be established and neatly maintained along the perimeter of the area occupied by an automobile graveyard or junkyard; provided, however:

(a) That when a common boundary exists between the areas used for storage by two (2) or more automobile graveyards or junkyards, the common boundary shall be exempt from the screening requirements.

(b) That where existing vegetation effectively meets the requirements of a perimeter screen as set forth above, no additional screen shall be required.

(c) That an area not exceeding a total of twenty feet (20') in width shall be exempt, when such area provides access to a gate constructed of opaque materials.

The screen established shall completely obscure the contents within the automobile graveyard or junkyard from view from the abutting and adjacent property and public rights-of-way.

Sec. 5-24. Requirements for evergreen trees.

When evergreen trees are used to form the screen required by this article, such screen shall consist of a minimum of two (2) rows of trees, which shall consist of a minimum of two (2) rows of trees, which shall be spaced not more than six feet (6') apart. Trees within each row shall be spaced not more than six feet (6') apart and shall be offset from the trees in the adjacent row by a distance of one-half (½) the spacing between trees to produce a staggered pattern. Where the tree canopy does not extend to the ground, low growing evergreen plant material shall be planted between rows to obscure the view between the ground and tree canopy.

Sec. 5-25. Requirements for earthen berm.

When an earthen berm is used to form the screen required by this article, the minimum slope shall be three-to-one (3:1) and it shall be completely covered with lawn grass, evergreen natural shrubbery or vegetation, evergreen plants or trees or any combination thereof.

Sec. 5-26. Use of building wall as part of screen.

The walls of a building may be used to form a part of the screen required by this article; provided, however, the display or storage of goods thereon shall be prohibited.

Sec. 5-27. Compliance with setback requirements of zoning ordinance.

The screen required by this article shall comply with the setback requirements of the zoning ordinance, legal nonconforming structures excepted.

Cross reference—Zoning ordinance, Ch. 24.1.

Sec. 5-28. Fence and screen for existing automobile graveyards and junkyards.

(a) The owner or lessee of an automobile graveyard or junkyard existing on October 5, 1978, shall comply with the conditions set forth in this article within ninety (90) days from such date, or in lieu of the screen required by this article, shall establish, within such ninety (90) days, a fence and screen around the perimeter of the area occupied by the automobile graveyard or junkyard, except that portion of the perimeter that abuts another automobile graveyard or junkyard or which is obscured by a wall or building. Such fence shall completely obscure the contents within the automobile graveyard or junkyard from view from abutting and adjacent property and public rights-of way and shall be constructed of one or more of the following materials:

(1) Salt-treated or creosote-treated pine, cedar, cypress or similar decay resistant material.

(2) Protected metals, such as Teflon-coated steel, anodized aluminum or similar materials.

(3) Masonry construction such as brick, glazed terra-cotta or cinder block, when protected by an epoxy coating.

(b) The fence referred to in this section shall be maintained in good repair, and any damage or deteriorated materials shall be reconstructed and renewed. Any damaged or deteriorated treated surfaces or such fence shall be repainted and renewed.

(c) Screening required by this section shall be comprised of hardy evergreen vegetation of a species that will reach a height sufficient to obscure the fence within three (3) years and shall be planted in accordance with the spacing requirements set forth in section 5-24 of this article.

Sec. 5-29. Cash escrow or letter of credit to assure maintenance, replacement or repair.

(a) The owner or lessee of property upon which is located an automobile graveyard or junkyard shall post with the county administrator written evidence of cash in escrow or an irrevocable letter of credit in the amount of one thousand dollars ($1,000.00). Such cash in escrow or letter of credit shall be available for use by the county to maintain, replace or repair the screening required by this article should the owner fail to do so. Such cash in escrow or letter of credit shall be replenished within ten (10) days of any draw down by the county under provision of this section. Failure to replenish such cash in escrow or letter of credit within the prescribed time shall constitute a violation of this section.

(b) Cash in escrow provided for in this section shall be deposited in an interest bearing account and interest accruing to such account shall be paid annually to the owner or lessee.

Sec. 5-30. Use for advertising purposes.

The screen required by this article shall not be used for billposting or other advertising purposes, except that a space may be used for the advertisement of the business of the owner thereof, when in compliance with the sign regulations contained with the zoning ordinance.

Cross reference—Zoning ordinance, Ch. 24.1.

CODE OF THE COUNTY OF YORK

Chapter 6

RESERVED

CODE OF THE COUNTY OF YORK

Chapter 7

RESERVED

CODE OF THE COUNTY OF YORK

Chapter 7.1

BUILDING REGULATIONS*

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*__Cross reference__—Erosion and sediment control, Ch. 10; fire prevention and protection, Ch. 11; special construction requirements for restaurants, § 14-7; sewers and sewage disposal and water facilities, Ch. 18; street address numbering system, § 20-31 et seq.; water utilities, Ch. 22.7; zoning ordinance, Ch. 24.1.

ARTICLE I. IN GENERAL

Sec. 7.1-1. Purpose of chapter.

The purpose of this chapter is to preserve and secure the health, safety and general welfare of the citizens of the county by assuring proper construction, alteration, addition, repair, demolition, location, use, occupancy, and maintenance of all buildings and structures and their service equipment within the county.

Sec. 7.1-2. Conflicting requirements.

(a) Wherever regulations contained in this chapter require or impose standards higher or more restrictive than those contained in any other statute or local ordinance or regulation, the provisions of this chapter shall govern.

(b) Whenever the provisions of any other statute or local ordinance or regulation require or impose standards higher or more restrictive than those contained in this chapter, the provisions of such other statute or local ordinance or regulation shall govern.

(c) Whenever two (2) or more of any of the provisions established by this chapter are found to be in conflict, the more restrictive provision shall govern.

(Ord. No. 04-18(R), 7/13/04)

Sec. 7.1-3. Adoption; amendments.

There is hereby adopted by reference in the county that certain code known as the Virginia Uniform Statewide Building Code (VUSBC) and all Virginia Administrative Amendments-Accumulative Supplements thereto in being as of August 15, 1974 or subsequently issued, and the whole thereof and the same is hereby incorporated herein as fully as if set out in length. Said code, as amended herein, shall control all matters set forth in section 7.1-1 above and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment as defined by such code and shall apply to all existing and proposed structures in the county. Certain sections and subsections of the VUSBC are amended as follows:

(a) VIRGINIA CONSTRUCTION CODE:

(1) Wherever the parenthetical phrases "name of municipality" or "name of jurisdiction" appear, the words "County of York" shall be substituted therefor.

(2) Wherever the parenthetical phrase "date of adoption of this code" appears, the word and numbers "August 15, 1974" shall be substituted therefor.

(b) VIRGINIA PLUMBING CODE:

(1) Wherever the parenthetical phrase "date of adoption of this code" appears, the word and numbers "August 15, 1974" shall be substituted therefor.

(2) Wherever the parenthetical phrases "name of municipality" or "name of jurisdiction" appear, the words "County of York" shall be substituted therefor.

(3) Section 305.6.1 Depth of Sewer 4".

(c) VIRGINIA MECHANICAL CODE:

(1) Whenever the parenthetical phrase "date of adoption of this code" appears, the word and numbers "August 15, 1974" shall be substituted therefor.

(2) Whenever the parenthetical phrase "name of municipality" or "name of jurisdiction" appears, the words "County of York" shall be substituted therefor.

(d) NATIONAL ELECTRICAL CODE:

(1) Wherever reference is made to governmental bodies or jurisdictions, the words "County of York" shall be deemed to apply.

(2) Whenever the terms "authority having jurisdiction" or "competent authority" or terms similar in nature are used, they shall be deemed to mean the "building code official or a representative he/she may designate." Such representative shall normally be the electrical inspector.

(e) VIRGINIA RESIDENTIAL CODE:

(1) Table No. R-301.2 (1) in section R-301 of the subject code is amended by adding the following underlined words and numbers under each of the columnar headings as follows:

Roof snow load, pounds per square feet	20
Seismic condition by zone	A
Wind Speed	100 mph (3 second wind gust)
Subject to damage from:	
Weathering	Yes, Moderate
Frost line depth	Yes, 16 inches
Termite	Yes, Moderate to Heavy
Decay	Yes, Moderate to Severe
Winter Design Temp	Yes, 20

It is mandatory that the codes referenced in subsections (a) through (e) above be compared with and updated by the Virginia Administrative Amendments Supplements prior to final interpretation of any of the provisions of those codes.

(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-4. International Property Maintenance Code.

(a) There is hereby adopted and amended as part of this chapter the following sections and articles of the Virginia Maintenance Code (VMC), adopted reference in Part III of the VUSBC, “Maintenance of Existing Structures”, and all Virginia Administrative Amendments-Accumulative Supplements thereto in being as of July 1, 1992, or subsequently issued: Section 403.3 (“Cooking Facilities") which shall apply to any rooming or dormitory unit; Chapter 6 in its entirety (“Mechanical and Electrical Requirements”) which shall apply to all existing buildings, except single family residential private dwellings which are not rented, leased or let; and Chapter 7 in its entirety (“Fire Safety Requirements”) which shall apply to all buildings except those in use group R-5.

(b) From and after the effective date of this chapter, the provisions of the “Virginia Maintenance Code” adopted in subsection (a) above shall be enforced by the building code official and/or the fire code official when an unsafe condition is discovered by the building code official. The building code official and/or fire code official shall have authority to enforce those sections of the Virginia Maintenance Code adopted above, with all those duties, powers, and immunities as specified in the Virginia Uniform Statewide Building Code. Enforcement shall be in accordance with Article VI of this chapter.

(c) The Board of Building Code Appeals is hereby designated as the appeals board to hear appeals arising from the application of the provisions of the Virginia Maintenance Code adopted above.

(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-5. When and where copies may be obtained.

Copies of the Virginia Uniform Statewide Building Code and the Virginia Maintenance Code and the publications adopted herein are available for public inspection and review at the office of the county division of building regulation during regular business hours.

(Ord. No. 12-5(R), 5/15/12)

Secs. 7.1-6—7.1-7. Reserved.

ARTICLE II. PERMITS, FEES AND INSPECTIONS

Sec. 7.1-8. Types of permits and fees.

Permits, inspections and fees shall be required for all work as established by the Virginia Uniform Statewide Building Code. Permit applications shall be made in writing on such forms as are prescribed by the building code official. A permit shall be issued by the building code official before any of the work or actions noted in the following sections is commenced.

Nothing in this chapter shall be construed to prevent the owner of any single-family dwelling from performing additions, alterations or repairs to the dwelling in which he or she resides. Such owner shall obtain all required permits and shall make all required tests of the completed work before approval of the work is granted by an inspector. No such installation shall be put into service prior to final approval by such inspector.

It shall be unlawful for any owner, lessee, agent or any person having any authority or duty in connection with any building or premises knowingly to employ or hire any person to perform any electrical, plumbing or building-related mechanical work in or upon such building or premises unless such person is a certified master in the field in which the work is to be performed, or qualifies for an exemption from certification under the provisions of the Virginia Board for Contractors' Tradesman Certification Rules and Regulations. It shall also be unlawful for any contractor, firm or corporation to undertake or contract to perform any electrical, plumbing or building-related mechanical work in or upon any building or premises unless such contractor, firm or corporation is a state-registered contractor or is exempt from such registration by law, and such contractor, firm or corporation has in its employ a certified master in the field in which the work is to be performed or qualifies for an exemption from certification under the provisions of §54.1-1131 of the Code of Virginia.

(a) *Building Permits*. A building permit shall be required for the following types and classes of activities. Electrical, plumbing, and mechanical work is not covered by a building permit and, if such work is to be performed, separate permits shall be obtained and the applicable fees shall be paid. No building permit shall be issued unless and until a certificate of zoning compliance, as required by this Code, has been obtained from the zoning administrator. Fees for building permits shall be as follows:

(1) For new construction finished or unfinished (including additions).

Residential structures under roof:
Fee: $0.14 per square foot with a minimum fee of $75.00

Commercial structures under roof:
Fee: $0.12 per square foot for the first 30,000 square feet and $0.10 per square foot for any footage over 30,000 square feet

Structures not under roof (including patios, decks, ramps, loading docks)
Fee: $0.12 per square foot with a minimum fee of $75.00

(2) For the alteration, renovation, or repair of any building or structure; the construction or erection of piers, bulkheads, towers, swimming pools or pool systems; the installation of fire alarm systems; the installation of security or energy systems; the installation of site illumination; the removal of asbestos; and any other additions, renovations, or alterations to these or similar structures or systems. (Fee is based on current value of all service, labor and materials.)

$0.00—1000.00	$ 75.00
1001.00—5000.00	95.00
Greater than $5000.00 value: plus $45.00 for each $5000.00, or fraction thereof, of value in excess of $5000.00	115.00

(3) For the installation or erection of a manufactured (mobile) home, industrialized building unit, or moveable structure, the fee is $75.00.

(4) For the placing of tents greater than 900 square feet and an occupant load of greater than 50 persons, the fee is:

a. Fee for each tent inspection $95.00

b. Annual tent permit $275.00

(5) For the demolition or razing of any building or structure serviced by electrical and/or gas provider, the fee is $75.00.

(6) For the removal and placement of an existing building or structure, in part or in whole, from one location to another new location, whether or not the new location is on the same lot or parcel of land the fee is $95.00.

(7) For the installation of fencing for swimming pools and around hazardous material, be it wood, metal, masonry, or another material, the fee is $75.00.

(8) For construction not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be $75.00.

(b) *Plumbing Permits.* A plumbing permit shall be required for any work which includes but is not limited to the installation or alteration of plumbing fixtures or water supply systems, and connections to any building drain, public or private sanitary sewage system or manufactured (mobile) home hook up.

(1) New residential use groups, per dwelling unit – Base fee: $107.00
Base fee includes first three (3) fixtures plus $2.00 for each fixture thereafter.

(2) Additions to residential – Base fee: $75.00 plus $8.00 for each fixture.

(3) New commercial (including additions) – Base fee: $107.00 plus $8.00 for each fixture.

(4) Alterations and repairs (all use groups) Base fee: $75.00.

(5) Water, sewer - $75.00 plus $35.00 if a septic tank is abandoned.

(6) Gas Permit Fees:

Gas Distribution Systems (Natural/LP)	Base Fee:	$75.00
Each additional outlet or future outlet		$ 8.00

LP Gas Tanks:

0-500 Gallon	$75.00 per tank
501 Gallons and over	$75.00 per tank

(7) For plumbing permits not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be $75.00.

FIRE PROTECTION FEES:

(8) Fire-suppression/sprinkler systems for buildings:

Value	*Fee*
$0.00 - 2000.00	$ 75.00
2001.00 - 4000.00	105.00
Greater than $4000.00 value:	115.00
plus $15.00 for each additional $1,000.00	

or fraction thereof of value in excess of $4000.00

Fire Pumps	$150.00 per pump
Standpipe System	$ 75.00 per riser
Kitchen Systems	$ 75.00 per hood

(c) *Electrical Permits.* An electrical permit shall be required for the following types and classes of activities. Fees for said permits shall be as indicated.

(1) New residential use group fee is $107.00 per dwelling unit. Greater than two hundred (200) amperes, the fee is $107.00 plus $15.00 for each additional fifty (50) amperes or fraction thereof in excess of two hundred (200) amperes.

(2) Commercial fee is $127.00. Greater than two hundred (200) amperes, the fee is $127.00 plus $15.00 for each additional fifty (50) amperes or fraction thereof in excess of two hundred (200) amperes.

(3) Increasing the size of electrical service the fee is $75.00. Greater than four hundred (400) amperes the fee is $75.00 plus $25.00 for each additional fifty (50) amperes or fraction thereof in excess of four hundred (400) amperes.

(4) For the addition or alteration of electrical fixtures or outlets in existing buildings or structures (provided however, that no outlet fee shall be assessed where a service upgrade is involved) the fee is $75.00.

(5) For the connection or reconnection of electrical service to a manufactured home, trailer or an industrialized building unit, the fee is $75.00.

(6) Temporary service fee is $75.00.

(7) For electrical permits not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be $75.00.

(d) *Mechanical Permits.* A Mechanical permit shall be required for the following types and classes of activities. Fees for said permits shall be as indicated.

(1) For the installation, replacement, repair or alteration of mechanical systems or equipment, or freestanding fireplaces, solid fuel stoves, and other mechanical installations or alterations.

a. New residential use groups Base fee: $107.00 plus $15.00 per additional system per dwelling unit.

b. Alterations, repairs, additions to residential fee is $75.00 per dwelling unit.

c. New commercial fee, including additions to existing systems:

Base fee: $107.00 plus $45.00 per each air handler/system

Exhaust Fans/Air Distribution Boxes	$25.00 per unit
Fire Damper	$20.00 per damper
Refrigeration Units	$75.00 per unit
Burner Conversion	$75.00
Pumps (Circulation)	$35.00 per unit
Fuel Dispensing Pump	$50.00 per unit
Fuel Dispensing Piping	$40.00 per line

d. Alterations and repairs (commercial) fee is $75.00.

e. Prefab fireplaces fee is $75.00 per unit.

(2) Storage tanks for liquids - installation, removal or replacement per tank:

	Fee
0--550 gallon	$ 75.00
over 550 gallon	150.00

(3) Fee for kitchen hood (Including Duct and Fan)

Type I (Grease and other hazards)	$135.00 per hood
Type II (Heat, Dishwasher)	75.00 per hood

(4) Commercial new elevators, dumbwaiters, moving stairs and walks, man-lifts, hoisting or conveying equipment the fee is $175.00 for each one installed.

(5) Residential new elevators and platform lifts the fee is $75.00.

The owner/contractor shall be responsible for obtaining the permits and paying the requisite fee, and shall have the inspection performed by a certified individual in the presence of a county inspector.

(6) Gas Permit Fees:

Gas Distribution Systems (Natural/LP)	Base Fee:	$60.00
Each additional outlet		$ 8.00

LP Gas Tanks:	
0-500 Gallon	$75.00 per tank
501 Gallons and over	$75.00 per tank

(7) For mechanical permits not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be $50.00.

(e) *Sign Permits.* A sign permit shall be required for the erection, relocation or structural alteration of all signs. No sign permit shall be issued unless and until a certificate of zoning compliance, as required by this Code, has been obtained from the zoning administrator. The fee for such permits shall be as follows:

(1) For erection and/or relocation of signs, the fee shall be $60.00 plus an amount based on the total square footage of all faces of the sign, as follows:

Area of Sign Faces	*Additional Fee*
0—50 square feet	$ 30.00
51—100 square feet	40.00
101—300 square feet	50.00
Over 300 square feet	60.00

(2) For structural alterations the fee shall be $55.00 plus the applicable amount from the above table matching the increase, if any, in sign area.

(3) In addition to the permits for material installation, if the sign is illuminated an electrical permit shall be required.

(f) *Miscellaneous permits*:

(1) In addition to the permits for the installation of material, all elevators, dumbwaiters, moving stairways and man lifts shall be subject to an annual operating permit and inspection as required by the VUSBC. The owners/operators of establishments having such facilities shall be responsible for obtaining the permits, and for paying the requisite fee, at least thirty (30) days prior to the expiration of the then-in-effect annual permit. The applicant shall have the inspection performed by a certified individual in the presence of a county inspector and shall submit the inspection report to the building code official not later than thirty (30) days after the inspection has been conducted. In addition, all of the above shall be subject to the

three- or five-year maintenance inspections required by the VUSBC.

a. Fee for annual inspection - $75.00

b. Fee for maintenance inspection - $75.00

(2) In addition to the permits for material installation, all amusement devices and rides shall be subject to an annual permit and inspection, as required in the Virginia Amusement Device Regulations prior to each seasonal opening. The owner/operator of an establishment having such facilities shall be responsible for obtaining the permit and for paying the requisite fee, at least thirty (30) days prior to the expiration of the then-in-effect annual permit. In addition, all of the above shall be subject to the operation inspection as required in the Virginia Amusement Device Regulations.

a. Fee for each ride for the annual inspection - $75.00

(3) A permit and inspection shall be required for rides that consist principally of portable devices temporarily situated at a site, and as defined in the Virginia Amusement Device Regulations, as amended.

	Fee
Kiddie rides	$ 25.00
Major Rides	35.00
Spectacular Rides	55.00
Coaster rides exceeding 30 feet in height	150.00

(4) A permit and inspections shall be required for any land disturbing activity in conjunction with the construction of a single family residence: Fee: $85.00, and if permanent vegetation has not been established within 9 months from the issuance of the permit, then a renewal fee of $85.00 shall be required for each additional 9 months thereafter.

(g) *State Levy.*

In addition to the fees prescribed in sections 7.1-8 (a through f), an additional fee equal to the state levy on building permits as set out in the VUSBC effective as of the date of issuance of the permit shall be collected.

(h) Additional Fees.

(1) Whenever work is begun prior to the issuance of the required permits, the fee shall be doubled; however, such increase in fee shall not exceed $200.00.

(2) Certificate of Occupancy

a.	change of building use	$75.00
b.	temporary residential	75.00
c.	temporary commercial	95.00
d.	day care inspection	75.00
e.	Adult Home inspection	75.00

(Ord. No. 04-18(R), 7/13/04; Ord. No. 10-17, 8/17/10; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-9. General requirements and procedures.

a) *By whom applications are made; transferability.* Applications for permits shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect, contractor or subcontractor, or their respective agents, employed in connection with the proposed work. Prior to the issuance of the permit, the applicant shall furnish evidence either of a license issued in accordance with chapter 11 of Title 54.1 of the Code of Virginia or acceptable evidence that the applicant is exempt from the provision of this chapter. Once issued, permits shall not be transferable to another owner, lessee or professional.

b) *Application to be accompanied by plats and other documentation.* Applications for permits shall be

accompanied by a plat plan showing, to scale, the size and location of all proposed new construction, distances from lot lines, the established street grades and the proposed finished grade consistent with the approved development plan and location of private and public easements and rights-of-way. Construction within easements and rights-of-way shall be prohibited unless the applicant provides evidence that the owner or beneficiary of the easement or right-of-way has authorized the construction.

c) *When permit becomes invalid; extensions of time.* Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six (6) months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six (6) months after the time of commencing the work, the failure to complete enough work to schedule an inspection during any six-month period may be grounds for finding that work has been abandoned or suspended; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. Upon written request, and for good cause shown, the building code official may grant one (1) or more extensions of time not to exceed six (6) months per extension. The fee shall be $75.00 per extension.

d) *Time limit for single-family dwelling permits*. Any permit for the construction of new detached single-family dwellings, additions to detached single-family dwellings, and residential accessory structures shall be completed within a three-year time limit. The time limit shall begin from the issuance date of the permit.

e) *Plan examination fee*. Where plans bearing a licensed architect's or engineer's seal are required to be submitted pursuant to the standards set forth in section 54.1-402 et. seq., Code of Virginia, and in the case of plans for multi-family dwellings, and in other situations where the building code official deems it necessary to require the submission of plans bearing the seal of a licensed architect or engineer, a non-refundable plan examination fee of $225.00 shall be charged. For all other building permits applied for that require a review a plan review fee of $75.00 shall be paid at time of application. The residential plan review fee shall be applied towards the permit fee if building permit is issued within 90 days from date of application. If residential permit is not issued by the aforementioned time frame, the plan review fee shall not be refunded nor applied towards a permit fee.

f) *Reinspection fee.* Whenever the building, electrical, plumbing or mechanical inspector is required to make a re-inspection of work because the permittee has requested an inspection before the work is ready for the inspection, or when the inspector cannot obtain reasonable and safe access to the work to be inspected, or address has not been posted on the construction site, there shall be a $75.00 re-inspection fee. Such fee shall be charged to the holder of the permit covering the work and shall be paid to the county at the office of Building Regulation prior to the re-inspection of such work.

g) *Submission of detailed cost estimate.* Where the provisions of this section require the payment of a fee based on the current value of all service, labor and materials, the building code official may require that a detailed cost estimate be submitted for review and approval as a prerequisite to the issuance of a permit.

h) *Conditions constituting basis for refunding of permit fee.* The building code official may authorize the refunding of any permit fee paid pursuant to this chapter upon application by the person who paid such fee, under the following conditions:

(1) If an applicant requests in writing the cancellation of a permit prior to the start of construction or to requesting any inspections, the permit fees, less a service charge of $50.00 and a plan review fee of $75.00, if applicable, shall be refunded.

(2) If an applicant requests in writing the cancellation of a permit after the work authorized by the permit has begun and inspections have been made, the permit fees, less a $50.00 service charge, a $75.00 charge for each inspection made and a $75.00 plans review fee, if applicable, shall be refunded.

(3) The above provisions notwithstanding, no refund shall be made if twelve (12) months have expired since the issuance of the permit(s).

(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-10. Permit and fee exemptions.

(a) Where the owner of any premises is the United States of America or the county, the payment of any permit fees, inspection fees or plan review fees established in sections 7.1-8 and 7.1-9 shall not be required.

(b) Where the owner of any premises is an instrumentality of government, other than the United States of America or the county, an administrative processing fee of $225.00 is required. The plan review shall be in accordance with Section 111.5.3.1, and the inspections shall be performed in accordance with Section 115.8.1 of the VUSBC.

(c) Minor construction, as identified herein, shall be exempt from the building permit requirements of section 7.1-8. Such exemptions shall not, however, have the effect of waiving any setback or other dimensional requirements of the York County Zoning Ordinance. Exempted minor construction shall include:

(1) The erection of a one-story detached accessory structure used as tool and storage sheds, playhouses or similar uses, and not serviced by electricity and not exceeding two hundred (200) square feet gross floor area; the erection of a prefabricated wading pool less than two (2) feet in depth and not connected to utility lines; or the erection of a detached building designed as a children's playhouse having a gross floor area of less than one hundred-fifty (150) square feet, not exceeding a height of eight (8) feet, and located at grade level in the rear yard of a single family dwelling.

(2) Painting.

(3) Replacement of roof coverings in Group R3, R-4 and R-5 structures.

(4) Replacement of windows and doors within Group R-2 four stories or less and Groups R-3, R-4 and R-5.

(5) Replacement of floor coverings and porch flooring within Group R-2 four stories or less and Groups R-3, R-4 and R-5.

(6) Repairs to plaster, interior tile work, and other wall coverings in all occupancies.

(7) Cabinets installed in all occupancies.

(8) Tents and air supported structures of 900 square feet or less with an occupant load of 50 or less persons.

(9) Electric water heater replacement in Group R-2 four stories or less and Groups R-3, R-4 and R-5.

(10) Replacement of electrical switches, outlets, light fixtures and ceiling fans in Group R-2 four stories or less and Groups R-3, R-4 and R-5.

(d) The erection of temporary tents, canopies or other types of fabric enclosures and associated electrical or mechanical installations by or for the benefit of charitable organizations to which the county is authorized to contribute shall be exempt from the permit and inspection fees required by this chapter. Such installations shall, however, be subject to all applicable technical and safety standards of this chapter as well as all applicable requirements of the county zoning ordinance.

(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-11. Inspections.

(a) The building code official shall prescribe such inspections and surveys as may be necessary to secure compliance with the VUSBC, the Virginia Industrialized Building Unit and Manufactured Home Safety Law and Regulations, and such other regulations as shall properly fall within the

enforcement responsibility of the office of the building code official. Such inspections shall include but are not limited to:

(1) The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.

(2) Beams, floor joists, vents and anchor bolts before any subfloor is laid.

(3) Structural framing and fastenings, prior to covering with concealing materials.

(4) All electrical, mechanical and plumbing materials, equipment and systems prior to concealment.

(5) Required insulating materials before covering with any materials.

(6) Upon completion of the building, and before issuance of the certificate of occupancy, a final building inspection shall be made to ensure that any violations have been corrected and all work conforms with the VUSBC.

(7) Where the construction cost is less than $2,500.00, the inspection shall be permitted, at the discretion of the building code official, to be waived.

(b) It shall be the responsibility of the permit holder or the permit holder's representative to notify the office of building regulation when the stages of construction are reached that require an inspection.

(c) The building code official may, upon probable cause that a building code violation exists, inspect buildings and structures, whether permanent or temporary, after their completion and which are used to store hazardous materials or are occupied or to be used by twenty (20) or more persons who are employed, lodged, housed, assembled, served, entertained or instructed therein, or the common areas of residential structures containing four (4) or more units, including buildings owned by the Commonwealth or by any political subdivisions, and the equipment therein, to ensure compliance with the building code. The building code official shall also coordinate all reports of inspections with those from the fire and health officials prior to the issuance of an occupancy permit. In making these inspections the building code official shall enforce the building regulations that were in effect at the time the building was constructed.

(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-12. Certificate of use and occupancy.

(a) A building, structure, mechanism or assembly, or part thereof, subject to the VUSBC when erected or installed shall not be used, occupied, operated or considered complete until a certificate of use and occupancy has been issued by the building code official.

(b) No certificate of occupancy shall be issued until a certification by a licensed surveyor is presented to the building code official validating that the final established lot elevations and grades are consistent with the approved development plan and the plat plan submitted with the building permit application.

(c) A temporary certificate of occupancy may be issued at the discretion of the building code official and where such use or occupancy will not create an unsafe, unusable, or unhealthy condition. The owner or contractor shall execute a surety agreement with the building code official and provide a bond or cash surety in the amount of any unfinished work or certifications needed to obtain the final Certificate of Occupancy, in accordance with Section 10-14 Erosion and Sediment Control, Code of the County of York.

(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

ARTICLE III. SUPPLEMENTAL REGULATIONS

Sec. 7.1-13. Connections to electric or gas supply.

(a) It shall be unlawful for any public utility company providing electric or gas service in the county to make or permit to be made any connections with its electrical or gas supply lines to any building, unless such electrical or gas piping installation in such building has been inspected and approved by the county.

(b) In case of fire, natural disaster or other emergency, the building code official or his/her authorized representative, or any officer of the sheriff's department or the division of fire and rescue services, shall have the authority to order the applicable public utility company to physically sever its electric or gas supply lines to any building or premises.

(c) It shall be the duty of the public utility company to disconnect any building or premises from its electrical or gas supply lines upon an order issued under the provisions of this section. It shall be the further duty of such company to have a competent employee on duty at all times who shall promptly proceed to physically sever electrical or gas services upon issuance of such an order.

(Ord. No. 04-18(R), 7/13/04)

Sec. 7.1-14. Provisions for Maintaining a Clean Building Construction Site.

The permit holder and property owner shall be responsible for removing construction debris on a daily basis or providing at every building construction site a dumpster or a screened area to deposit the construction debris. The construction debris deposited in either a dumpster or screened area shall be removed on an as needed basis during the construction process or period.

(Ord. No. 04-18(R), 7/13/04)

Sec. 7.1-15. Provisions for Driveways.

(a) No permit shall be issued for the erection or construction of any new building or structure requiring the installation of a culvert pipe for a driveway unless the owner of such property provides evidence that a permit has been issued by the Virginia Department of Transportation.

(b) Where Virginia Department of Transportation approval is subject to the issuance of permit, the building code official shall require documentation that the culvert pipe has been installed pursuant to the requirement of the Virginia Department of Transportation before the issuance of the Certificate of Occupancy is issued.

(Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-16. Provisions for water and sewage.

(a) No permit shall be issued for the erection or construction of any new building or structure requiring wastewater disposal unless the owner of such property provides evidence to the satisfaction of the building code official that the premises has a permit for connection to the facilities of the county or that other facilities for sewage disposal, meeting all applicable requirements of this Code and the Virginia Department of Health, can and will be provided.

(b) No permit shall be issued for the erection or construction of an addition to an existing building that is connected to a septic system when the proposed structure would be within five (5) feet of the septic tank and eight (8) feet of the drain field, measured horizontally.

(c) Where health department approval of a septic system is made subject to conditions, the building code official shall require evidence of the recordation of such conditions in the office of the clerk of the circuit court prior to the issuance of a building permit. No building permit shall be issued for any construction, which would infringe on any septic system drainfield area designated pursuant to the terms of this Code and/or by requirement of the health department.

(d) No permit shall be issued for the erection or construction of a building or structure that is to be serviced by a private ground water well as its primary source of potable water until the owner of such property provides evidence to the building code official from the Virginia Department of Health or from certified laboratories that the water has been tested and approved in accordance with existing

federal and state water quality standards.
(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-17. Unsafe buildings, walls or structures; repair, removal.

(a) Pursuant to the terms of section 15.2-906, Code of Virginia, as it may be amended from time to time, the owners of property in the county shall, at such time or times as the building code official may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county.

(b) The building code official through his own agents or employees may remove, repair or secure any building, wall or any other structure which may endanger the public health or safety of other residents of the county when the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building, wall or other structure. For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice shall include a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published in a newspaper once a week for two successive weeks having general circulation in the county. No action shall be taken to remove, repair or secure any building, wall or other structure for at least thirty days following the later of the return of the receipt or newspaper publication.

(c) In the event the building code official, through his own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected.

(d) Every charge authorized by this section or by Code of Virginia section 15.2-900 (regarding the abatement or removal of nuisances by localities) with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local taxes and enforceable in the manner as provided in Articles 3 (§58.1-3940, et. seq.) and 4 (§58.1-3965, et. seq.) of Chapter 39, of Title 58.1, Code of Virginia. The Board of Supervisors may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.
(Ord. No. 04-18(R), 7/13/04; Ord. No. 05-19, 7/19/05; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-18. Expansive Type Soil

(a) Soil testing shall be performed by a qualified individual, who shall: (1) determine the number of borings required; (2) provide a report of the soil test results; (3) provide recommendations for foundation design. As an acceptable alternative, tests which were completed at the subdivision stage of development that have sufficient data to indicate that no additional testing is required on the building site for the building construction, may be accepted. When test results indicate the presence of expansive soil at the building site, the foundation for the proposed structure shall be designed by a registered design professional prior to any building permit being issued.

(b) Additions to existing buildings that will not exceed 30% of the existing footprint area, and decks, shall not require a soil test.

(c) The requirements for soil testing for non-habitable accessory structures not exceeding 600 square feet may be waived at the discretion of the building code official.
(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Secs. 7.1-19—7.1-26. Reserved.

ARTICLE IV. BOARD OF BUILDING CODE APPEALS

Sec. 7.1-27. Purpose/Procedure.

(a) The owner of a building or structure or his authorized agent, or any other person, firm or corporation directly involved in the design and/or construction of a building or structure, may appeal to the Board of Building Code Appeals within ninety (90) days from a decision of the building code official when it is claimed that:

(1) The building code official has refused to grant a modification which complies with the intent of the provisions of the VUSBC or the VMC;

(2) The true intent of the VUSBC or the VMC has been incorrectly interpreted;

(3) The provisions of the VUSBC or the VMC, as the case may be, do not fully apply; or

(4) The use of a form of construction that is equal to or better than that specified in the VUSBC has been denied.

(b) All applications to the board shall be in writing on such forms as may be prescribed by the building code official.

(c) Each application shall be accompanied by a non-refundable fee of $275.00.
(Ord. No. 04-18(R), 7/13/04; Ord. No. 12-5(R), 5/15/12)

Sec. 7.1-28. Board establishment.

(a) *Appointment; composition.* A seven member board of building code appeals, as required by section 119 of the Virginia Uniform Statewide Building Code, shall be appointed by resolution of the board of supervisors and shall be composed of members meeting the requirements of the Virginia Uniform Statewide Building Code.

(b) *Appointment, reappointment and removal.* Members of the board shall be appointed or reappointed for terms of three (3) years. A member may be removed by the board of supervisors if absent without excuse at two (2) consecutive meetings during any calendar year, or for other reasons as determined by the board of supervisors.

(c) *Chairman.* The board shall annually elect a chairman who shall serve a term of one (1) year.

(d) *Hearings of appeals.* The hearing on appeals shall be in accordance with the provisions specified in the Virginia Uniform Statewide Building Code.

(e) *Compensation.* Compensation, if any, of the board members shall be determined by the board of supervisors.
(Ord. No. 12-5(R), 5/15/12)

Secs. 7.1-29—7.1-42. Reserved.

ARTICLE V. TRADESMEN

Sec. 7.1-43. Transfer or loss of certificate; certificate to be in holder's possession while working.

No certificate of qualification shall be transferred, lent or used for any purpose whatsoever except by the person to whom such certificate has been issued. It shall be the duty of each certified person to have such

certificate in their possession whenever performing any electrical, plumbing, or building-related mechanical work in the county and to permit an inspector to examine such certificate upon request. It shall also be the duty of the certified person to report promptly the loss of such certificate and to apply for a duplicate to the Virginia Board for Contractors.

Secs. 7.1-44—7.1-57. Reserved.

ARTICLE VI. VIOLATIONS AND PENALTIES

Sec. 7.1-58. Provisions governing prosecution; Authority of building code official.

The provisions of the Virginia Uniform Statewide Building Code shall govern the prosecution of violations of such codes as adopted in section 7.1-3 and section 7.1-4 of this chapter. The building code official or any person assigned to building inspection shall have authority to serve a written notice of violation and to order the abatement of such violation. In the case of a notice of a violation of the Property Maintenance Code, the notice shall specify a time limit for the discontinuance or abatement of the violation. The building code official is hereby granted the authority to issue a summons to the general district court for any person in the county who shall fail to obey a lawful order contained in such notice of violation. The fire code official, as identified in chapter 11 of this Code, shall have concurrent power and authority with the building code official to enforce those sections of the Statewide Building Code adopted pursuant to section 7.1-4.

Sec. 7.1-59. Generally.

It shall be unlawful for any person to violate any provision of this chapter or the Virginia Uniform Statewide Building Code or of the Virginia Maintenance Code or fail to comply with any of the requirements thereof, or erect, construct, alter or repair or maintain a building or structure in violation of an approved plan or directive of the building code official or in violation of a permit or certificate issued under the VUSBC. It shall be unlawful for any person to continue any work in or about the building after having been served with a stop work order, except such work as he or she is directed to perform to remove a violation, unsafe or substandard condition. Upon conviction, violations shall be shall be punishable by a fine up to the maximum permitted by § 36-106, Code of Virginia, and each day that a violation continues shall be deemed a separate offense.
(Ord. No. 12-5(R), 5/15/12)

Secs. 7.1-60—7.1-62. Reserved.

CODE OF THE COUNTY OF YORK

Chapter 8

EDUCATION*

CONTENTS

Sec. 8-1. School districts. 2

*Cross reference—Reservation of land for schools and other public uses in subdivision, Ch. 20.5, § 20.5-88.

Sec. 8-1. School districts.

The election districts established in article II of chapter 9 of this Code shall also constitute school districts, as prescribed by section 22.1-36, Code of Virginia.

CODE OF THE COUNTY OF YORK

Chapter 9

ELECTIONS

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(Ord. No. 01-21(R), 11/20/01; Ord. No. 11-7(R), 4/19/11)

ARTICLE I. IN GENERAL

Sec. 9-1—9-20. Reserved.

ARTICLE II. ELECTION DISTRICTS

Sec. 9-21. Established.

(a) Pursuant to authority contained in the Code of Virginia (1950), as amended, section 15.2-1211 and section 24.2-304.1 through 24.2-310.1, election districts of York County, Virginia, are hereby created and established as set forth in this article. The boundaries of the respective election districts are as shown on the map entitled "York County Election Districts" dated April 19, 2011, which map is incorporated into this article as fully as if set forth herein, a copy of which shall be kept permanently at the office of the county administrator.

(b) The election districts, with populations set forth based on the United States Census of 2010, are as follows:

(1)	York County Election District No. 1	13,332
(2)	York County Election District No. 2	12,763
(3)	York County Election District No. 3	13,583
(4)	York County Election District No. 4	13,103
(5)	York County Election District No. 5	12,583

(Ord. No. 11-7(R), 4/19/11)

Sec. 9-21.1. Central absentee voter election precinct.

(a) There is hereby established for the County a central absentee voter precinct for all elections as defined by § 24.2-101, Code of Virginia. The polling place of the central absentee voter precinct shall be located in close proximity to the registrar's office.

(b) The central absentee voter precinct shall conform in all aspects with § 24.2-712, Code of Virginia.
(Ord. No. 06-3, 2/21/06; Ord. No. 11-7(R), 4/19/11)

Sec. 9-22. District No. 1 boundaries.

The boundaries of York County Election District No. 1 shall be as set forth below:

Beginning at the common corner of Gloucester County, James City County, and York County, said point being at the centerline of the York River; first generally westerly and then generally southerly with the common boundary between York County and James City County to a point along Mooretown Road which is the common corner between the City of Williamsburg, James City County and York County; thence in a generally southerly, then easterly, then southerly direction with the common boundary of the City of Williamsburg and York County to a point in the centerline of Penniman Road, which is the common corner of James City County, York County and the City of Williamsburg; thence with the centerline of Penniman Road in an easterly and then southerly direction to its intersection with Oak Drive; thence with the centerline of Oak Drive in a southerly direction to its intersection with Government Road; thence with the centerline of Government Road and then the common boundary of York County and James City County in a southerly, then easterly, then southerly direction to the common corner between York County, James City County and the City of Newport News; thence in an easterly direction along the common boundary between York County and the City of Newport News to a point in the centerline of Route 238; thence in an easterly direction along the centerline of Route 238 (Old Williamsburg Road) to its intersection with Goosley Road; thence along the centerline of Old Williamsburg Road to its intersection with the Colonial Parkway; thence with the centerline of the Colonial Parkway in a northwesterly direction to its intersection with Ballard Creek; thence along the centerline and centerline extended of Ballard

Creek in a northeasterly direction to the centerline of the York River; thence with the centerline of the York River in a northwesterly direction to the point of beginning.

(Ord. No. 01-21(R), 11/20/01; Ord. No. 11-7(R), 4/19/11)

Sec. 9-23. District No. 2 boundaries.

The boundaries of York County Election District No. 2 shall be as set forth below:

Beginning at a point on the centerline of Denbigh Boulevard where it crosses the headwaters of the Poquoson River; thence with the centerline of the headwaters of the Poquoson River and the Poquoson River in a southeasterly direction to its intersection with U.S. Route 17; thence with the centerline of U.S. Route 17 in a southerly direction to its intersection with Route 134; thence with the southern right-of-way line of Route 134 in a southeasterly direction to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to the northern boundary of the United States Air Force Landings at Langley military housing complex property, thence in a northeasterly direction along the boundary of the United States Air Force Landings at Langley military housing complex property to its intersection with Route 134, thence with the northern right-of-way line of Route 134 in an easterly direction to its intersection with First Street; thence in a southerly direction with the centerline of First Street to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to its intersection with the common boundary line between the City of Hampton and York County; thence in a westerly direction along the common boundary line between the City of Hampton and York County and then the common boundary line of the City of Newport News and York County to U.S. Route 17; thence in a northwesterly direction with the common boundary line between the City of Newport News and York County to its intersection with the centerline of Denbigh Boulevard; thence with the centerline of Denbigh Boulevard in an easterly direction to the point of beginning.

(Ord. No. 01-21(R), 11/20/01; Ord. No. 11-7(R), 4/19/11)

Sec. 9-24. District No. 3 boundaries.

The boundaries of York County Election District No. 3 shall be as set forth below:

Beginning at a point in the centerline of the York River opposite the centerline extended of Ballard Creek; thence in a southerly direction with the centerline extended of Ballard Creek and the centerline of Ballard Creek to its intersection with the Colonial Parkway; thence in a southeasterly direction with the centerline of the Colonial Parkway to its intersection (underpass) with Old Williamsburg Road; thence in a southwesterly direction with the centerline of Old Williamsburg Road to its intersection with Goosley Road; thence with the centerline of Old Williamsburg Road (Route 238) in a westerly direction to its intersection with the common boundary between York County and Newport News; thence with the common boundary between York County and the City of Newport News in a southeasterly direction to its intersection with the centerline of Denbigh Boulevard; thence with the centerline of Denbigh Boulevard in an easterly direction to its intersection with U.S. Route 17; thence with the centerline of U.S. Route 17 in a southerly direction to its intersection with Wolf Trap Road; thence with the centerline of Wolf Trap Road in a northeasterly and northerly direction to its intersection with the headwaters of Chisman Creek; thence with the headwaters of Chisman Creek in an easterly direction to its intersection with the centerline of Chisman Creek; thence with the centerline of Chisman Creek in an easterly direction and then southeasterly direction to its intersection with the centerline of the Poquoson River; thence with the centerline and centerline extended of the Poquoson River in a northerly direction to the centerline of the York River; thence with the centerline of the York River in a westerly direction to the point of beginning.

(Ord. No. 01-21(R), 11/20/01; Ord. No. 07-16, 8/21/07; Ord. No. 11-7(R), 4/19/11)

Sec. 9-25. District No. 4 boundaries.

The boundaries of York County Election District No. 4 shall be as set forth below:

Beginning at a point in the centerline of the Poquoson River opposite the centerline of Chisman Creek extended; thence in a northwesterly and then southwesterly direction with the centerline of Chisman Creek and its headwaters to a point where it intersects with the centerline of Wolf Trap

Road; thence in a southwesterly and westerly direction with the centerline of Wolf Trap Road to its intersection with U.S. Route 17; thence in a northerly direction with the centerline of U.S. Route 17 to its intersection with the centerline of Denbigh Boulevard; thence with the centerline of Denbigh Boulevard to its intersection with the headwaters of the Poquoson River; thence with the headwaters of the Poquoson River in a southeasterly direction to its intersection with U.S. Route 17; thence with the centerline of U.S. Route 17 in a southerly direction to its intersection with Route 134 (overpass); thence in a southeasterly direction with the southern right-of-way line of Route 134 to its intersection with Yorktown Road; thence with the centerline of Yorktown Road in an easterly direction to its intersection with the headwaters of Moores Creek; thence in a northerly direction with the headwaters of Moores Creek and the centerline of Moores Creek to its intersection with the centerline of the Poquoson River; thence with the centerline of the Poquoson River in a northerly direction to the point of beginning.

(Ord. No. 01-21(R), 11/20/01; Ord. No. 11-7(R), 4/19/11)

Sec. 9-26. District No. 5 boundaries.

The boundaries of York County Election District No. 5 shall be as set forth below:

Beginning at a point in the centerline of the Poquoson River opposite the mouth of Chisman Creek; thence continuing with the centerline of the Poquoson River in a southwesterly direction to a point where the centerline of the Poquoson River intersects the centerline of Moores Creek; thence with the centerline of Moores Creek and the headwaters of Moores Creek in a southerly direction to a point in the centerline of Yorktown Road; thence with the centerline of Yorktown Road in a westerly direction to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to its intersection with Route 171; thence with the centerline of Victory Boulevard in a westerly direction to its intersection with Route 134; thence with the centerline of Route 134 in a southeasterly direction to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to its intersection with the northern boundary of the United States Air Force Bethel Manor military housing complex property, thence in a northeasterly direction along the boundary of the United States Air Force Bethel Manor military housing complex property to its intersection with Route 134, thence with the centerline of Route 134 in an easterly direction to its intersection with First Avenue; thence with the centerline of First Avenue in a southerly direction to its intersection with 5th Avenue, thence in a westerly direction with the centerline of 5th Avenue to its intersection with 4th Avenue, thence in a westerly direction with the centerline of 4th Avenue to its intersection with Big Bethel Road thence with the centerline of Big Bethel Road in a southerly direction to its intersection with the common boundary line between the City of Hampton and York County; thence in an easterly direction with the common boundary of the City of Hampton and York County to a point in Brick Kiln Creek, said point being the common corner between the City of Poquoson, York County, and the City of Hampton; thence in a northwesterly direction with the common boundary line between the City of Poquoson and York County to the point of beginning.

(Ord. No. 01-21(R), 11/20/01; Ord. No. 11-7(R), 4/19/11)

Sec. 9-27. One supervisor to be elected from each district; magisterial districts to remain the same; election districts constitute school districts.

(a) One supervisor shall be elected from each election district created by this article.

(b) The existing magisterial districts of the county shall remain the same, but representation on the board of supervisors shall be by election districts as set forth in this article.

(c) The election districts shall also constitute school districts as prescribed by sections 22.1-36 and 22.1-44, Code of Virginia (1950), as amended.

(Ord. No. 11-7(R), 4/19/11)

Secs. 9-28—9-37. Reserved.

ARTICLE III. PRECINCTS AND POLLING PLACES

Sec. 9-38. Precincts established.

(a) Pursuant to authority contained in the Code of Virginia (1950), as amended, sections 24.2-307 through 24.2-310.1, the precincts and their respective polling places for York County, Virginia are hereby created and established as set forth in this article.

(b) The precincts for each election district and the polling places for each precinct shall be as set forth below:

Precinct	*Polling Place*
York County Election District No. 1	
Waller Mill	Waller Mill Elementary School
Queens Lake	Queens Lake Middle School
Magruder	Griffin-Yeates Center
York County Election District No. 2	
Kiln Creek	York County Library-Tabb
Coventry	Coventry Elementary School
York County Election District No. 3	
Edgehill	Yorktown Elementary School
Seaford	Seaford Elementary School
Yorktown	York High School
York County Election District No. 4	
Dare	Dare Elementary School
Harwoods Mill	Grafton-Bethel Elementary School
Grafton	Grafton High/Grafton Middle School
York County Election District No. 5	
Bethel	Tabb Elementary School
Tabb	Tabb High School

(Ord. No. 05-7, 4/19/05; Ord. No. 11-7(R), 4/19/11)

Sec. 9-39. District No. 1 precinct boundaries.

The boundaries of the respective precincts of York County Election District No. 1 shall be as set forth below:

Waller Mill Precinct

Beginning at a point in the York River at the common corner between James City County, York County and Gloucester County, said point being the centerline of the York River; first generally westerly, then generally southerly with the common boundary line between York County and James City County to a point along Mooretown Road which is the common corner between James City County, the City of Williamsburg and York County; thence in a generally southerly and then easterly direction with the common boundary line between the City of Williamsburg and York County to the centerline of Queen Creek; thence with the centerline of Queen Creek as it meanders in a northeasterly direction to the centerline of the York River; thence with the centerline of the York River in a northwesterly direction to the point of beginning.

Queens Lake Precinct

Beginning at a point where the centerline of Queen Creek intersects the common boundary line between York County and the City of Williamsburg; thence in a southerly direction with the common boundary of the City of Williamsburg and York County to a point in the centerline of Penniman Road, which is the common corner of James City County, York County and the City of Williamsburg; thence with the centerline of Penniman Road in an easterly direction to its intersection with Hubbard Lane; thence with the centerline of Hubbard Lane in a northerly direction to its intersection with the Colonial Parkway; thence with the centerline of the Colonial Parkway in an easterly direction to its intersection with Jones Run and the eastern boundary of New Quarter Park; thence in northeasterly direction with Jones Run and the eastern boundary New Quarter Park to the centerline of Queen Creek; thence with the centerline of Queen Creek in a westerly direction to the point of beginning.

Magruder Precinct

Beginning at a point in the common boundary line between York County and Gloucester County in the center of the York River, said point being opposite the mouth of Queen Creek; thence in a straight line in a southwesterly direction along the centerline extended and the centerline of Queen Creek to its intersection with the eastern boundary of New Quarter Park and the centerline of Jones Run; thence in a southwesterly direction along the eastern boundary of New Quarter Park and Jones Run to the centerline of the Colonial Parkway; thence with the centerline of the Colonial Parkway in a westerly direction to its intersection with Hubbard Lane; thence with the centerline of Hubbard lane in a southerly direction to its intersection with Penniman Road; thence with the centerline of Penniman Road in an easterly and then southerly direction to its intersection with Oak Drive; thence with the centerline of Oak Drive in a southerly direction to its intersection with Government Road; thence with the centerline of Government Road and then the common boundary of York County and James City County in a southerly, then easterly, then southerly direction to the common corner between York County, James City County and the City of Newport News; thence in an easterly direction along the common boundary between York County and the City of Newport News to a point in the centerline of Route 238; thence in an easterly direction along the centerline of Route 238 (Old Williamsburg Road) to its intersection with Goosley Road; thence with the centerline of Old Williamsburg Road in an easterly direction to its intersection (overpass); with the Colonial Parkway thence along the centerline of the Colonial Parkway in a northwesterly direction to its intersection with Ballard Creek; thence along the centerline of Ballard Creek and its centerline extended in a northeasterly direction to the centerline of the York River; thence with the centerline of the York River in a northwesterly direction to the point of beginning.

(Ord. No. 11-7(R), 4/19/11)

Sec. 9-40. District No. 2 precinct boundaries.

The boundaries of the respective precincts of York County Election District No. 2 shall be as set forth below:

Kiln Creek Precinct

Beginning at a point in the centerline of Denbigh Boulevard where it intersects the common boundary line between York County and the City of Newport News; thence in a northeasterly direction with the centerline of Denbigh Boulevard to its intersection with the headwaters of the Poquoson River; thence with the headwaters of the Poquoson River in a southeasterly direction to its intersection with U.S. Route 17; thence with the centerline of U.S. Route 17 in a southerly direction to its intersection with the common boundary between the City of Newport News and York County; thence in a northwesterly direction along the common boundary line between the City of Newport News and York County to the point of beginning.

Coventry Precinct

Beginning at the intersection of Route 17 and Route 134; thence in southeasterly direction with the southern right-of-way line of Route 134 to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to the northern boundary of the United States Air Force Landings at Langley military housing complex property, thence in a northeasterly direction along the boundary of the United States Air Force Landings at Langley military housing complex

property to its intersection with Route 134, thence with the northern right-of-way line of Route 134 in an easterly direction to its intersection with First Street; thence in a southerly direction with the centerline of First Street to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to its intersection with the common boundary line between the City of Hampton and York County; thence in a westerly direction along the common boundary line between the City of Hampton and York County and then the common boundary line of the City of Newport News and York County to U.S. Route 17; thence in a northerly direction with the centerline of Route 17 to the point of beginning.

(Ord. No. 11-7(R), 4/19/11)

Sec. 9-41. District No. 3 precinct boundaries.

The boundaries of the respective precincts of York County Election District No. 3 shall be as set forth below:

Edgehill Precinct

Beginning at a point where the centerlines of U.S. Route 17 and the Colonial Parkway intersect; thence with the centerline of the Colonial Parkway in a northwesterly direction to its intersection (underpass) with the centerline of Old Williamsburg Road; thence with the centerline of Old Williamsburg Road in a westerly direction to its intersection with Goosley Road; thence with the centerline of Old Williamsburg Road (Route 238) in a westerly direction to its intersection with the common boundary between York County and the City of Newport News; thence with the common boundary between York County and the City of Newport News in a southeasterly direction to its intersection with the centerline of Denbigh Boulevard, thence with the centerline of Denbigh Boulevard in an easterly direction to its intersection with U.S. Route 17; thence with the centerline of U.S. Route 17 in a northerly direction to its intersection with the Colonial Parkway and the point of beginning.

Yorktown Precinct

Beginning at a point in the centerline of the York River opposite the centerline of Wormley Creek extended; thence in a southerly and then westerly direction with the centerline of Wormley Creek extended and the centerline of the East Branch of Wormley Creek and its headwaters to its intersection with Battle Road; thence in a southwesterly direction with the centerline of Battle Road to its intersection with Old York-Hampton Highway; thence in a southeasterly direction with the centerline of Old York-Hampton Highway to its intersection with Hornsbyville Road; thence with the centerline of Hornsbyville Road in a southeasterly and then northeasterly direction to its intersection with Wolf Trap Road; thence with the centerline of Wolf Trap Road in a southerly and then southwesterly direction to its intersection with Route 17; thence with the centerline of Route 17 in a northerly direction to its intersection with the Colonial Parkway; thence in a westerly and northwesterly direction with the centerline of the Colonial Parkway to its intersection with Ballard Creek; thence in a northerly direction with the centerline and centerline extended of Ballard Creek to the centerline of the York River; thence with the centerline of the York River in an easterly direction to the point of beginning.

Seaford Precinct

Beginning at a point in the centerline of the York River opposite the centerline of Wormley Creek extended; thence in a southerly and then westerly direction with the centerline of Wormley Creek extended and the centerline of the East Branch of Wormley Creek and its headwaters to its intersection with Battle Road; thence in a southwesterly direction with the centerline of Battle Road to its intersection with Old York-Hampton Highway; thence in a southeasterly direction with the centerline of Old York-Hampton Highway to its intersection with Hornsbyville Road; thence with the centerline of Hornsbyville Road in a southeasterly and then northeasterly direction to its intersection with Wolf Trap Road; thence with the centerline of Wolf Trap Road in a southerly direction to its intersection with the headwaters of Chisman Creek; thence in an easterly direction with the centerline of Chisman Creek and its headwaters to its intersection with the centerline of the Poquoson River; thence with the centerline of the Poquoson River in a northerly direction to its intersection with the centerline of the York River; thence with the centerline of the York River in a westerly direction to the point of beginning.

(Ord. No. 07-16, 8/21/07; Ord. No. 11-7(R), 4/19/11)

Sec. 9-42. District No. 4 precinct boundaries.

The boundaries of the respective precincts of York County Election District No. 4 shall be as set forth below:

Dare Precinct

Beginning at a point in the centerline of the Poquoson River opposite the centerline of Chisman Creek extended; thence in a northwesterly and then southwesterly direction with the centerline of Chisman Creek to its intersection with the branch known as Mill Cove; thence in a southerly direction with the centerline of Mill Cove and its headwaters to a point where it intersects with the centerline of Allens Mill Road; thence in a southerly direction with the centerline of Allens Mill Road to its intersection with Dare Road; thence with the centerline of Dare Road in a southwesterly direction to its intersection with U.S. Route 17; thence with the centerline of U.S. Route 17 in a southerly direction to its intersection with Lakeside Drive; thence with the centerline of Lakeside Drive in an easterly and then northeasterly direction to its intersection with Dare Road; thence in an easterly direction with the centerline of Dare Road to a point where it intersects the headwaters of Patricks Creek; thence with the headwaters of Patricks Creek and the centerline of Patricks Creek in a southerly and then southeasterly direction to its intersection with the centerline of the Poquoson River; thence with the centerline of the Poquoson River in a northeasterly direction to the point of beginning.

Harwoods Mill Precinct

Beginning at a point in the centerline of the Poquoson River opposite the centerline extended of Patricks Creek; thence with the centerline extended and the centerline of Patricks Creek and its headwaters in a northwesterly and then northerly direction to its intersection with Dare Road; then with the centerline of Dare Road in a westerly direction to its intersection with Lakeside Drive; thence with the centerline of Lakeside Drive in a southwesterly direction to its intersection with U. S. Route 17 and Oriana Road; thence with the centerline of Oriana Road in a westerly direction to its intersection with the headwaters of the Poquoson River; thence with the headwaters of the Poquoson River in a southeasterly direction to its intersection with U. S. Route 17; thence with the centerline of U. S. Route 17 in a southerly direction to its intersection with Route 134; thence in a southeasterly direction with the centerline of Route 134 to its intersection with Victory Boulevard; thence in an easterly direction with the centerline of Victory Boulevard to its intersection with Big Bethel Road; thence in a northerly direction with the centerline of Big Bethel Road to its intersection with Yorktown Road; thence with the centerline of Yorktown Road to its intersection with the headwaters of Moores Creek; thence in a northerly direction with the headwaters of Moores Creek and the centerline of Moores Creek to its intersection with the centerline of the Poquoson River; thence with the centerline of the Poquoson River in a northerly direction to the point of beginning.

Grafton Precinct

Beginning at a point in the centerline of Chisman Creek opposite the mouth of the branch known as Mill Cove; thence in a southerly direction with the centerline extended and centerline of Mill Cove and its headwaters to a point where it intersects with the centerline of Allens Mill Road; thence in a southerly direction with the centerline of Allens Mill Road to its intersection with Dare Road; thence with the centerline of Dare Road in a southwesterly direction to its intersection with U.S. Route 17; thence in a southerly direction with the centerline of Route 17 to its intersection with Oriana Road; thence in a westerly direction with the centerline of Oriana Road to its intersection with the headwaters of the Poquoson River; thence in a northerly direction with the headwaters of the Poquoson River to its intersection with the centerline of Denbigh Boulevard; thence in an easterly direction with the centerline of Denbigh Boulevard to its intersection with Route 17; thence in a southerly direction with the centerline of Route 17 to its intersection with Wolf Trap Road; thence in an easterly and then northeasterly direction with the centerline of Wolf Trap Road to its intersection with the headwaters of Chisman Creek; thence in an easterly direction with the centerline of the headwaters of Chisman Creek and the centerline of Chisman Creek to the point of beginning.

(Ord. No. 11-7(R), 4/19/11)

Sec. 9-43. District No. 5 precinct boundaries.

The boundaries of the precinct of York County Election District No. 5 shall be as set forth below:

Bethel Precinct

Beginning at a point in the centerline of Carys Chapel Road at the common boundary line between the City of Poquoson and York County; thence with the centerline of Carys Chapel Road in a northerly direction to its intersection with Victory Boulevard; thence with the centerline of Victory Boulevard in a westerly direction to its intersection with Running Man Trail; thence with the centerline of Running Man Trail in a southerly and then westerly direction to its intersection with Big Bethel Road; thence with the eastern right-of-way line of Big Bethel Road in a southerly direction to its intersection with Route 134, thence with the northern right-of-way line of Route 134 in an easterly direction to its intersection with First Street; thence in a southerly direction with the centerline of First Street to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to its intersection with the common boundary line between the City of Hampton and York County; thence in an easterly direction with the common boundary of the City of Hampton and York County to a point in Brick Kiln Creek, said point being the common corner between the City of Poquoson, York County, and the City of Hampton; thence in a northerly direction with the common boundary line between the City of Poquoson and York County to the point of beginning.

Tabb Precinct

Beginning at a point in the centerline of the Poquoson River opposite the mouth of Chisman Creek; thence continuing with the centerline of the Poquoson River in a southwesterly direction to a point where the centerline of the Poquoson River intersects the centerline of Moores Creek; thence with the centerline of Moores Creek and the headwaters of Moores Creek in a southerly direction to a point in the centerline of Yorktown Road; thence with the centerline of Yorktown Road in a westerly direction to its intersection with Route 134; thence with the southern right-of-way line of Route 134 in a southeasterly direction to its intersection with Big Bethel Road; thence with the centerline of Big Bethel Road in a southerly direction to the northern boundary of the United States Air Force Landings at Langley military housing complex property on the east side of Big Bethel Road; thence in a northerly direction with that northern boundary to its intersection with Route 134; thence with the northern right-of-way line of Route 134 in a westerly direction to its intersection with Big Bethel Road; thence with the eastern right-of-way line of Big Bethel Road in a northerly direction to its intersection with Running Man Trail; thence in an easterly and then northerly direction with the centerline of Running Man Trail to its intersection with Victory Boulevard; thence with the centerline of Victory Boulevard in an easterly direction to its intersection with Carys Chapel Road; thence with the centerline of Carys Chapel Road in a southerly direction to the common boundary line between the City of Poquoson and York County; thence in a northerly direction with the common boundary line between the City of Poquoson and York County to the point of beginning.

(Ord. No. 11-7(R), 4/19/11)

Sec. 9-44. Registered voters to be notified of changes in precincts or polling places.

The Registrar shall notify by mail, no later than fifteen (15) days prior to the next general, special, or primary election, all registered voters whose precinct and/or polling place has been changed by the provisions of this article.

(Ord. No. 11-7(R), 4/19/11)

CODE OF THE COUNTY OF YORK

Chapter 10

EROSION AND SEDIMENT CONTROL*

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(Ord. No. 02-7(R), 7/16/02)

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*__Cross reference__—Building regulations, Ch. 7; sewers, Ch. 18.1; zoning ordinance, Ch. 24.1; subdivision ordinance, Ch. 20.5.

ARTICLE I. IN GENERAL

Sec. 10-1. Purpose of chapter.

It is the purpose of this chapter to prevent degradation of properties, stream channels, waters and other natural resources of the county by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4 (62.1-44.15:51 et seq.), known as the Erosion and Sediment Control Law.
(Ord. No. 15-11, 9/15/15)

Sec. 10-2. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings ascribed to them in this section:

Agreement in lieu of a plan. A contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family detached dwelling; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Certified inspector. An employee or agent of the County who has been designated as such by the county administrator. A certified inspector shall (i) hold a certificate of competence from the Virginia Soil And Water Conservation Board in the area of project inspection or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for project inspection and successfully complete such program within one year after enrollment.

Certified plan reviewer. A County employee or agent who has been designated as such by the county administrator. A certified plan reviewer shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review, (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for plan review and successfully complete such program within one year after enrollment, or (iii) be licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article 1 (Sec 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as it may be amended from time to time.

Certified program administrator. A County employee or agent designated as such by the county administrator. A certified program administrator shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of program administration or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for program administration and successfully complete such program within one year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including, but not limited to, root mat removal or topsoil removal.

Code of Virginia. All references herein to the Code of Virginia are to the Code of Virginia (1950), as it may be amended from time to time.

Conservation plan, erosion and sediment control plan, or plan. A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretation and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

County. The County of York.

County Administrator. The county administrator for York County, or his designee.

Department. The Virginia Department of Conservation and Recreation.

Director. The director of the Virginia Department of Conservation and Recreation.

District or soil and water conservation district. Refers to the Colonial Soil and Water District.

Erosion Impact area. An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other methods of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Grading. Any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity. Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to clearing, grading, excavating, transporting and filling of land except that the term shall not include:

(1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

(2) Individual service connections;

(3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

(4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to the construction of the building to be served by the septic tank system;

(5) Surface or deep mining;

(6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas;

(7) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 of Title 10.1 of the Code of Virginia (Sec 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia Sec 10.1-1163(B);

(8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(9) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Virginia Dam Safety Act (Article 2 of Chapter 6 of Title 10.1, Code of Virginia, Sec. 10.1-604 et seq.) ditches, strip cropping, lister furrowing, contour cultivation, contour furrowing, land drainage and land irrigation;

(10) Disturbed land areas of less than two thousand five hundred (2,500) square feet in size;

(11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(12) Shore erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands board, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

(13) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan approving authority.

Land-disturbing permit. A permit issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof for any purpose set forth herein.

Local erosion and sediment control program or local control program. All of the various methods employed by the County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, which may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Minimum Standards. Those Minimum Standards contained within the Erosion and Sediment Control Regulations promulgated by the Virginia Soil and Water Conservation Board, as set out in 9VAC25-840-40 of the Virginia Administrative Code as they may be amended from time to time.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee. The person to whom a permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or any other political subdivision of the state, any interstate body, or any other legal entity.

Plan-approving authority. The county administrator or his designee who is responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority. The County, which has adopted a soil erosion and sediment control program approved by the Virginia Soil and Water Conservation Board.

Regulations. All regulations promulgated by any local, state, or federal governmental agency having oversight and authority over the control of erosion and sedimentation resulting from land-disturbing activities, including (without limitation) the Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook promulgated by the Virginia Soil and Water Conservation Board, as they may be amended from time to time.

Responsible Land Disturber. An individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Virginia Soil and Water Conservation Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as it may be amended from time to time.

Single-family detached dwelling. A noncommercial one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. For purposes of the definition of a “single-family detached dwelling”, the term “family” shall have the same meaning as is defined in the York County zoning ordinance, Chapter 24.1 of this Code.

State erosion and sediment control program or state program. The program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia, including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Transporting. Any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.
(Ord No. 03-14, 6/17/03; Ord. No. 15-11, 9/15/15)

Sec. 10-3. Local erosion and sediment control program.

(a) Pursuant to section 62.1-44.15:54 of the Code of Virginia, the County hereby adopts the regulations, references, guidelines, standards and specifications (hereinafter "the Virginia Erosion and Sediment Control Regulations") and the Virginia Erosion and Sediment Control Handbook ("the Handbook") promulgated by the Virginia Soil and Water Conservation Board, as such may be amended from time to time, for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. The Virginia Erosion and Sediment Control Regulations and the Handbook are sometimes referred to hereinafter as "the state program".

(b) Before adopting regulations which are more stringent than the state program, the County shall give due notice and conduct a public hearing on the proposed or revised regulations. No public hearing shall be required when the County is amending the local control program to conform to revisions in the state program.

(c) Pursuant to section 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector.

(d) The county administrator is hereby designated as the County's agent for the purpose of administering and enforcing the terms of this chapter. The agent is authorized to make such inspections as may be necessary to ensure compliance with the terms of this chapter, and any conditions of approval for specific projects and is authorized to take such steps as are provided by this chapter, and as may be necessary, to ensure compliance with its terms.

(e) The county administrator is hereby designated as the plan approving authority for the purpose of this chapter and is authorized, on behalf of the county, to review and approve applications for permits under the terms of this chapter.

(f) The County's Erosion and Sediment Control Program shall employ or retain one or more certified program administrators, one or more certified plan reviewers, and one or more certified inspectors. A single individual may be designated to perform more than one of such functions provided that the individual possesses the requisite qualifications.

(g) The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the County's Department of Environmental and Development Services.
(Ord. No. 15-11, 9/15/15)

Sec. 10-4. Conflicting requirements.

(a) The terms, conditions and provisions of this chapter shall in no way alter, diminish or change the terms, conditions or provisions of any other ordinance of the county.

(b) In the case of any conflict between any term, condition or provision of this chapter with any term, condition or provision of any other ordinance, the more restrictive term, condition or provision shall prevail.

(c) In the case of any conflict between any term, condition or provision of this chapter with any other term, condition or provision contained elsewhere in this chapter, the more restrictive term, condition or provision shall prevail.

Secs. 10-5—10-10. Reserved.

ARTICLE II. PLANS, PERMITS, STANDARDS AND INSPECTIONS

Sec. 10-11. Regulated land-disturbing activities; contents, submission and approval of plans

(a) Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the County Department of Environmental and Development Services an erosion and sediment control plan ("plan") for the land-disturbing activity and such plan has been approved by the plan-approving authority.

Where land-disturbing activities involve lands under the jurisdiction of more than one local erosion and sediment control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than to each jurisdiction concerned.

Where the land-disturbing activity results from the construction of a single-family detached dwelling, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

(b) The standards contained within the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by these same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Erosion and Sediment Control Regulations shall take precedence. In addition to the above standards, the following requirements shall be met for plan submissions:

(1) A minimum of four copies of the erosion and sediment control plan shall be submitted for review and approval.

(2) Plan sheet size shall be 24 inches by 36 inches.

(3) Plans shall be prepared to an appropriate engineer's scale and the scale shall be shown on the plan. Scale shall be no smaller than one inch equal to 100 feet.

(4) The name of the project, the developer, the owner of the property and the name, address, and telephone number of the person or firm preparing the plan shall be listed on the plan.

(5) The location and extent of any transitional buffers, infiltration yards, environmental management areas (includes Chesapeake Bay preservation areas), floodplain management areas, historic resources management areas, tourist corridor management areas or watershed management and protection areas that may be required by the application of chapter 24.1 (zoning ordinance) of this code shall be shown on the plan.

(6) The location, type, extent, owner's name and recordation information of any existing or proposed landscape, conservation, preservation, drainage, utility, ingress/egress or similar easements on the subject property or adjoining the property shall be shown on the plan.

(7) Trees proposed for preservation, their approximate drip line and the location, type and extent of tree protection devices and measures to assure preservation during clearing and subsequent development activity shall be shown on the plan.

(8) The sequence of construction outlining the installation and removal of erosion and sediment control measures in relationship to the development of the site shall be on the plan.

(9) An itemized cost estimate detailing the expected total construction costs of all erosion and sediment control measures associated with the plan shall be prepared and submitted along with the plan.

(c) The plan-approving authority shall, within 45 days, approve any such plan, if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this ordinance.

(d) The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(e) Consistent with Code of Virginia section 62.1-44.15:55, as a prerequisite to engaging in any land-disturbing activities as shown on an approved plan, the person responsible for implementing the erosion and sediment control plan shall provide the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying out the land disturbing activity in accordance with the approved plan. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this chapter.

(f) An approved plan may be changed by the plan-approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

(g) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(h) Consistent with Code of Virginia section 62.1-44.15:55 (D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies or railroad companies shall file general erosion and sediment control specifications annually with the Virginia Soil and Water Conservation Board for review and approval. The specifications shall apply to:

(1) Construction, installation and maintenance of electric, natural gas and telephone utility lines and pipelines; and

(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual County approval of separate projects as described in (1) and (2), above, shall not be required provided that Virginia Soil and Water Conservation Board approved specifications are followed. Projects not described in (1) and (2) above shall comply with the requirements of this ordinance.

(i) State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, section 62.1-44.15:56.

(Ord. No. 03-15, 6/17/03; Ord. No. 15-11, 9/15/15)

Sec. 10-12. Required permits.

(a) No person may engage in any land-disturbing activity, nor shall any building permit be issued by the County's building official, until such person shall have acquired a land-disturbing permit and have paid the fees and executed a secured performance agreement, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance.

(b) The county administrator may require the owner of property which has been designated by the county administrator as an erosion impact area to prepare and submit an erosion and sediment control plan for review and approval; and upon approval of the erosion and sediment control plan for the erosion impact area, the county administrator may require the owner of the property to obtain a land-disturbing activity permit, and to fully implement the approved plan.

(c) No permit which authorizes land-disturbing activities shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

Sec. 10-13. Plan review and inspection fee.

Any request for review and approval of an erosion and sediment control plan shall be accompanied by the payment of a plan review and inspection fee. Such fee shall be in the amount fixed, and as may be thereafter changed from time to time, by resolution adopted by the board of supervisors.

Sec. 10-14. Issuance of permit and surety requirements.

(a) No permit for activities approved under this chapter shall be issued until the applicant has executed a performance agreement secured by a cash escrow, letter of credit, or any combination thereof, or other suitable legal arrangement, in a form approved by the county attorney. Such cash escrow or letter of credit shall be in an amount acceptable to the county administrator and shall be sufficient to ensure that measures may be taken by the county, at the applicant's expense, should he fail, after proper notice and within the time specified, to establish and maintain appropriate conservation measures required of him as a result of his land-disturbing activities. The amount of the security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held. Nothing shall prevent the county from exercising such authority to prevent or remedy damages to other property, public or private, caused by an applicant's regulated activities. The county administrator may waive the requirement for surety if the surety amount is determined to be less than one thousand dollars ($1,000.00) and the land-disturbing activity is associated with the preparation for a single-family detached dwelling.

(b) Within sixty (60) days of the completion of the land-disturbing activity, as indicated by the issuance of a certificate of completion pursuant to section 10-17 of this chapter, such cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated as the case may be.

(c) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(d) No permit shall be issued which would authorize any land-disturbing activity for any development which requires site plan or subdivision plan review prior to the approval of the site or subdivision plan except upon the approval of the county administrator where it is determined after initial reviews of the development proposal that the only unresolved issues preventing site plan or subdivision plan approval are those which will not affect the location and extent of structures, parking areas or roads, or in accordance with subsection (f) below.

(e) No permit shall be issued which would authorize any land-disturbing activity within any area included within a recorded or proposed landscape preservation or similar easement, unless the land-disturbing activity is deemed necessary by the county administrator for the construction, installation or maintenance of storm drainage facilities or utilities operated and maintained by the county.

(f) Where a commercial or industrial site in excess of five (5) acres is proposed to be developed to accommodate multiple lots and/or buildings under separate ownership or control, the county administrator may, notwithstanding the provisions of subsection (d) above, authorize a land-disturbing activity in advance of approval of site plans for the individual commercial or industrial establishments upon demonstration by the property owner, to the satisfaction of the county administrator, that the topographic relief of the property will require extensive cut, fill and grading to prepare the site for multiple lot or building development and that such site preparation prior to plan approval is necessary and consistent with the objectives and policies of the county.

The following conditions shall be required by the county administrator in conjunction with such an authorization and shall be satisfied prior to issuance of any land-disturbing activity permits:

(1) A plan of development for the roads, drainage facilities and main-line utilities that will serve the proposed development and its multiple building sites shall be prepared, submitted and approved in accordance with all applicable site plan or subdivision development plan requirements.

(2) All work shall be performed in strict accordance with an approved erosion and sediment control plan that has been prepared and approved in accordance with all applicable standards.

(3) The construction of all streets, main-line utilities, drainage improvements and similar infrastructure, both public and private, as shown on the approved plan, shall be guaranteed for construction by an agreement and secured by a letter of credit or cash escrow in an amount approved by the county administrator and county attorney. The agreement shall require that said construction shall commence within one year of the initial date of authorization of the land-disturbing activity and shall be in accordance with properly submitted and approved plans.

(4) Reforestation of the property, or portions thereof as deemed appropriate by the county administrator, with approximately the same numbers and species of trees as were located on the property prior to clearing shall be guaranteed by an agreement and secured by a letter of credit or cash escrow in an amount approved by the county administrator and in such form as may be approved by the county attorney. Said reforestation shall be required unless a certificate of occupancy for at least one (1) commercial or industrial establishment is issued within three (3) years of the initial date of authorization of the land-disturbing activity.

(5) No clearing shall be permitted within fifty feet (50') of any property line, except to permit the construction of approved infrastructure improvements, nor within any other portion of the site determined by the county administrator to be nonessential to preparation of the site for development.

(6) The county administrator shall require the submission of any additional plans, plats, certifications or supporting materials deemed to be necessary and appropriate to apply and enforce this subsection.

Sec. 10-15. Term of permit.

(a) A permit issued under this article shall be valid for a period of one (1) year; provided, however, it may be extended for an additional one-year period, by written approval of the county administrator, upon receipt of evidence of reasonable progress toward completion of the approved project and compliance with all conditions of approval.

(b) If land disturbing activities cease for more than one hundred-eighty (180) days, or if the permittee fails to initiate land disturbing activities within one hundred-eighty (180) days, of the date of issuance

of a land disturbing activity permit, then the land disturbing activity permit and plan shall become void.

Sec. 10-16. Monitoring, reports, inspections, stop work orders and revocation of permits.

(a) The county may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of all inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) The county administrator shall periodically inspect the land-disturbing activity to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. Unless the county establishes and follows an alternative inspection program approved by the Virginia Soil and Water Conservation Board, inspections shall be provided during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the county administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

(c) Upon determination of a violation of this ordinance, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan or an approved agreement in lieu of a plan, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner set out in subsection (b), above, for a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court for the county.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the county administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county.

The owner may appeal the issuance of an order to the circuit court for the county.

Any person violating or failing, neglecting or refusing to obey an order issued by the county administrator may be compelled in a proceeding instituted in the circuit court for the county to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the county administrator from taking any other action authorized by this ordinance.

(d) Revoked land-disturbing activity permits shall be reinstated only after the permittee has complied with the provisions specified in the notice to comply, and only after the permittee has implemented and maintained proper erosion and sediment control measures in accordance with the approved plans and/or in accordance with the directions provided by the county administrator, and only if the permittee has complied with all of the terms and conditions under which the original land-disturbing activity permit was issued. In addition, the permittee must apply for reinstatement of the revoked land-disturbing activity permit. An inspection and review fee shall accompany the permittee's written request for the reinstatement of the revoked land-disturbing activity permit. The reinstatement inspection and review fee shall be equivalent to the original land-disturbing activity permit inspection and review fee. Furthermore, if the county has drawn upon the permittee's land-disturbing activity performance surety funds, and the county has expended all or a portion of the permittee's surety funds in an effort to correct the erosion and sediment control violations, then the permittee shall be required to provide an additional surety equivalent to the expended portion of the original surety funds.

Sec. 10-17. Certificate of completion of land-disturbing activity.

Upon completion of the land-disturbing activity in accordance with the approved plan, the county administrator shall issue a certificate of completion.

Secs. 10-18—10-25. Reserved.

ARTICLE III. VIOLATIONS, PENALTIES AND APPEALS

Sec. 10-26. Violations of chapter—Generally.

(a) Any person who engages in or causes any regulated land-disturbing activity, without first receiving approval for such activity as prescribed by this chapter, shall be in violation of this chapter.

(b) Any person who violates any condition of any authorized land-disturbing activity or exceeds the scope of approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.

Sec. 10-27. Penalties, injunctions and other legal actions.

(a) Any person who violates any provision of this chapter shall, upon a finding of the district court of the county, be assessed a civil penalty. The civil penalty for any one violation shall be not less than $100.00, nor more than $1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of $10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan or an approved agreement in lieu of a plan for any site shall not result in civil penalties which exceed a total of $10,000.

(b) The county administrator, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court of the county to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the ordinance, and the county administrator, that a violation of the ordinance has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the ordinance nor the county administrator has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(c) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed $2,000 for each violation. A civil action for such violation or failure may be brought by the county.

Any civil penalties assessed by a court shall be paid into the treasury of the county, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(d) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed $2,000. The county administrator shall establish a schedule enumerating the violations and the associated civil charges. Such civil charges shall be instead of any appropriate civil penalty.

(e) The County Attorney shall, upon request, take legal action to enforce the provisions of this ordinance.

(f) Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(g) Nothing herein shall prevent the County Administrator from or be a prerequisite to the County Administrator taking any other action allowed by law or equity to remedy noncompliance with this Chapter.

(Ord. No. 10-16, 8/17/10)

Sec. 10-28. Appeals and judicial review.

Final decisions of the county under this ordinance shall be subject to review by the circuit court of the county, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

CODE OF THE COUNTY OF YORK

Chapter 11

FIRE PREVENTION AND PROTECTION*

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*__Cross Reference—__Fire protection plan required for musical or entertainment festivals, § 3-59(8); fire prevention and protection requirements for automobile graveyards and junkyards, §§ 5-9—5-11; building regulations, Ch. 7.1; deposit of flammable or explosive material in county sewers § 18.1-30(a)(2); fire hydrants in subdivisions, subdivision ordinance, Ch. 20.5.

(Ord. O97-1(R), 2/5/97; Ord. No. 09-24, 10/20/09)

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ARTICLE I. IN GENERAL

Sec. 11-1. Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 1 misdemeanor.

Sec. 11-2—11-15. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 11-16. Definition.

Department. As used in this article, the word "department" shall mean the department established by section 11-17 of this article.

Sec. 11-17. Established; name.

There is hereby established, as a department within the government of the county, a fire department consistent with the provisions set forth in title 27, Code of Virginia, which department shall be known and designated as the "York County Fire and Rescue Service."

Sec. 11-18. Responsibilities.

The department shall be responsible for fire suppression and prevention as provided in title 27, Code of Virginia and shall be responsible for emergency services consistent with policy established and set forth by the board of supervisors by resolution and annually in the fiscal plan.

Sec. 11-19. Fire Marshal—Generally.

The board of supervisors shall appoint a fire marshal, and may appoint deputy fire marshals who shall have those powers and duties set forth in Title 27 of the Code of Virginia. The fire marshal and any deputies as appointed pursuant to this section shall have authority to arrest, to process and secure warrants of arrest, and to issue summons in the manner authorized by general law for violation of the fire prevention code and other ordinances related to fire safety and fire prevention, and such other duties as the fire chief may determine.

Sec. 11-19.1. Fire Chief.

The county administrator shall appoint a fire chief and such deputies and assistants as may appear necessary. The fire chief shall enforce the fire prevention code and shall have those duties set forth in Title 27 of the Code of Virginia and such other duties as the county administrator may determine.

Sec. 11-20. Authority of fire chief and other officers at scene of fire or rescue.

(a) While in the process of responding to an alarm of fire or rescue or extinguishing a fire and returning to the station, the fire chief or other officer in charge of the response at that time shall have the authority to maintain order at the fire or its vicinity, direct the actions of the firefighters at the fire or rescue scene, keep bystanders or other persons at a safe distance from the fire and fire equipment, facilitate the speedy movement and operation of firefighting equipment and firefighters and, until the arrival of a police officer, direct and control traffic, in person or by deputy, and facilitate the movement of traffic. The fire chief or other officer in charge shall display a firefighter's badge.

(b) Notwithstanding any other provision of law, the authority granted by this section shall extend to the activation of traffic-control signals designed to facilitate the safe egress and ingress of fire and rescue equipment during an emergency response or at a fire station.

(c) Any person refusing to obey the orders of the fire chief the fire marshal, a deputy fire marshal or other officer in charge at the time, given pursuant to this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00). The fire chief or chief officer in charge shall have the power to make arrests for violation of the provisions of this section.

Sec. 11-21. Interference with firefighters.

It shall be unlawful for any person to interfere with a firefighter in the discharge of his duty, or in any manner whatsoever to deter a firefighter in the discharge thereof.

Sec. 11-22. Loitering about fire house of station.

No person shall loiter about any fire house or fire station, unless such person is an employee or agent of the County whose duties require such person's presence there.
Cross Reference—Loitering generally, § 16-1.1.

Sec. 11-23. Liability for expenses incurred in fighting fire.

Any person who negligently, carelessly or intentionally, without using reasonable care and precaution to prevent its escape, starts a fire which burns on forest land, brush land or wasteland, or burns property of any kind, shall, in addition to any other penalty imposed under the provisions of this Code and other ordinances of the county, be liable for the full amount of expenses incurred by the county in fighting or extinguishing such fire.

Sec. 11-24. Parking in fire lanes prohibited.

(a) It shall be unlawful for any person to park a vehicle in a designated fire lane.

(b) The provisions of sections 15-44, 15-45 and 15-46 of this Code shall apply in the enforcement of this section.

(c) Penalty for violation. Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars ($100.00)
Cross reference—Stopping, standing and parking—Generally, § 15-41, et seq.

Sec. 11-25—11-33. Reserved.

ARTICLE III. FIRE PREVENTION CODE

Sec. 11-34. Adopted.

Pursuant to the provisions of section 27-97, Code of Virginia, there is hereby adopted by the board of supervisors, for the purpose of prescribing and enforcing regulations governing conditions hazardous to life and property from fire or explosions, that certain code known as the Virginia Statewide Fire Prevention Code, save and except such portions as are modified or amended in this article, and the same are hereby adopted and incorporated as fully as if set out in full herein, all of which are referred to in this chapter as the "fire prevention code." The fire chief or the chief's duly authorized representative shall enforce the fire prevention code.

Sec. 11-35. Definitions.

The following words and terms, when used in the fire prevention code, shall have the definitions ascribed to them in this section:

(a) The word "jurisdiction" shall mean the County of York Virginia.

(b) The term "fire official" or "code official" shall mean the fire chief of the county or the chief's duly authorized representative.

(c) The term "legal counsel of the jurisdiction" shall mean the attorney appointed by the board of supervisors to represent the county in legal matters.

Sec. 11-36. Amendments.

(a) *Generally*. The Virginia Statewide Fire Prevention Code is hereby amended, modified and changed as set out in the following subsections of this section.

(b) Section F-104.2 is hereby amended to read as follows:

Permits required: Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

(c) Section F-105.1 is hereby amended to read as follows:

Local appeals:

(1) The York County Building Code Appeals Board is hereby constituted as, and shall serve as, the York County Board of Fire Prevention Code Appeals.

(2) The board shall elect a chairman and a secretary, who shall serve for the term to which they were appointed by the board. A majority of the members of the board shall constitute a quorum. The board shall operate in accordance with the applicable provisions of the Administrative Process Act, section 9-6.14, Code of Virginia. All board hearings shall be open to the public. All resolutions or findings of the board shall be in writing and made available for public viewing.

(3) The fire official shall provide clerical support to the board within personnel and budgeting limits.

(4) Appeals to the board may be made by the person cited for violation when aggrieved by any decision or interpretation of the fire official made under the provisions of this code. The board shall meet within twenty (20) days of receipt of any appeal application by the board.

(d) Section F-311.4 is hereby added to read as follows:

Marking: The marking and posting of fire lanes shall be the responsibility of the property owner. The requirements are:

(1) Diagonal stripes and "No Parking Fire Lane" shall be painted the on the right-of-way in traffic yellow paint.

(2) The curb shall be painted traffic yellow.

(3) Signs shall be installed in plain view of motorists. The signs shall be twelve inches by eighteen inches (12" x 18") in size and shall read "No Parking Fire Lane" in red letters with a white background.

(e) Section F-316.0 is hereby added to read as follows:

Prohibition of Certain Cooking Devices: No charcoal, flammable liquid, or liquified petroleum gas, brazier, hibachi, grill, stove or similar device shall be ignited or used on the balconies, patios or decks of multifamily buildings, single-family attached buildings or similar structures when such balconies, patios or decks are constructed of combustible materials. Where rental units are involved, the management shall notify all tenants in writing of this requirement at the time the tenant initially occupies the premises and shall take reasonable steps to ensure compliance. Electric grills meeting the requirements of a nationally recognized testing laboratory for use on combustible materials may be used on balconies, patios or decks, provided the manufacturer's instructions are followed.

(f) (Repealed by Ord. O97-1(R), February 5, 1997.)

(g) Section F-520.0 is hereby added to read as follows:

Smoke detectors:

(1) The owner of any building of the following occupancy types shall install, maintain and inspect, at least annually, smoke detectors. Smoke detectors installed pursuant to this section shall be installed in conformance with the fire prevention code and the Uniform Statewide Building Code in the following:

(a) Any building containing one (1) or more dwelling units.

(b) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one (1) or more persons.

(c) Rooming houses regularly used, offered for or intended to provide overnight sleeping accommodations.

(2) Smoke detectors installed pursuant to this section shall be in conformance with the provisions of the Uniform Statewide Building Code. Either battery-operated or AC-powered units are acceptable.

(3) Maintenance of smoke detectors must be in conformance with Section F-513.0 of this Code.

(4) The owner of any dwelling unit of the kind listed in subparagraph (1), above, which shall be rented or leased, at the beginning of each tenancy and at least annually thereafter shall furnish the tenant with a certificate that all required smoke detectors are present, have been inspected, and are in good working order. Except for smoke detectors in hallways, stairwells and other public or common areas of multifamily buildings, interim testing, repair and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair or replace any malfunctioning smoke detectors within five (5) days of receipt of written notice from the tenant that such smoke detector is in need of service, repair or replacement.

(5) The owner of any dwelling unit subject to the requirements of this section shall maintain for a period of no less than two (2) years records reflecting the owner's compliance with this section. Such records shall verify the installation, date, and location of each smoke detector, and with respect to units under lease, the name and address of each tenant. These records must be available for inspection by the fire official during regular business hours upon request.

(h) Section F-2103.2 is hereby added to read as follows:

Inside storage: Storage in buildings and structures shall be orderly and shall not be within two (2) feet of the lowest part of the ceiling assembly; provided, however, that all storage shall be not be less than eighteen (18) inches below sprinkler heads and shall be located so as not to obstruct the means of egress from the building or structure.

(i) Section F-2103.4 is hereby added to read as follows:

Section F-2103.4. Dumpsters: Dumpsters located outside of a building or structure and used for trash and debris shall be located a minimum of twenty (20) feet from any structure or as otherwise approved by the fire official.

(j) Chapter 31, Fireworks, is hereby amended to read as follows:

Section F-3101.0 General

Section F-3101.1 Scope.

The manufacture of fireworks is prohibited within the county. The display, sale or discharge of fireworks shall comply with the requirements of this article and the requirements of Chapter 11, Title 59.1, of the Code of Virginia.

Section F-3101.2 Permit required.

A permit shall be obtained from the fire official for the display, sale or discharge of fireworks.

Section F-3101.3 Permit applications.

Application for permits shall be made in writing at least fifteen (15) days in advance of the date of the display or discharge of fireworks. The sale, possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein.

Section F-3102.1 Definitions.

"Fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, sparklers or other devices of like construction and any or other devices containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance, except that the term "fireworks" shall not include auto flares, paper caps containing not in excess of an average of 0.25 grain (16.2mg) of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

Section F-3103.0 Sale and Discharge

Section F-3103.1 General.

It shall be a violation of this code for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks, except as provided in the rules and regulations issued by the fire official for the granting of permits for supervised public displays of fireworks by the county, fair associations, amusement parks and other organizations. Every such display shall be handled by a competent operator approved by the fire official. The fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the fire official, will not be a hazard to property or endanger any person.

Section F-3103.2 Bond for display.

The permittee shall furnish a bond in an amount deemed adequate by the fire official for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, the permittee's agents, employees or subcontractors.

Section F-3103.3 Exceptions.

Nothing in this article shall be construed to prohibit any resident wholesaler, dealer or jobber from selling at wholesale such fireworks as are not herein prohibited, nor shall it be applicable to the sale or use of materials or equipment, when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportion of persons or property, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial

purposes in athletics or sports, or for use by military organization. Such wholesalers, dealers and jobbers shall store their supplies of fireworks in accordance with Section F-3003.0.

Section F-3103.4 Seizure of fireworks.

The fire official shall seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for display or sale, stored or held in violation of this article.

Section F-3205.10 is hereby added to read as follows:

Special dispenser: No gasoline, motor fuels, or any Class I flammable liquids shall be dispensed, or allowed to be dispensed, at or in any public filling station, unless the dispensing facilities are continually supervised by a qualified person who shall be present at or otherwise observe each dispensing operation. Such supervisor will be provided with positive safety control equipment approved by the fire official.

Sec. 11-37. Availability of copies.

Copies of the fire prevention code, adopted by this article, including appendices and amendments thereto, shall be kept in the offices of the fire chief and may be inspected between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday of every calendar week, except those days which are legal holidays. The county administrator shall make copies of the code available for sale to the public.

Sec. 11-38 thru 11-45. Reserved.

ARTICLE IV. ALARMS

Sec. 11-46. Definitions.

As used in this Article, the following terms shall have the meanings set forth below:

(a) Fire alarm: a device or a functionally related group of devices and equipment designed to detect smoke or fire, and which when activated will sound or transmit audible, visible, or electronic warning signals either on or off the premises. The term "fire alarm" shall include manual fire alarms and automatic fire alarms, as defined below.

(b) Manual fire alarm: a fire alarm required to be activated by the occupant or passerby when an emergency is in progress in or around a structure.

(c) Automatic fire alarm: a fire alarm which operates without the necessity of human intervention and which is activated as a result of a predetermined temperature rise, rate of temperature rise or increase in level of combustion products.

(d) Dialer: an appliance used to transmit an automatic signal or a pre-recorded voice message from either a fire alarm or an intrusion alarm to a central station or other remote location supervised by a trained attendant.

(e) Central station: an off-premise or an on-premise office to which alarms are connected, and where personnel are in attendance at all times to supervise the circuits and investigate signals.

(f) False alarm: any alarm activated from a fire alarm which is not, in fact, in response to the presence of, or in the case of a manually operated alarm, the reasonable apprehension of smoke, fire, or combustion materials.

Sec. 11-47. False Alarms.

(a) Any person who, without just cause therefore, calls or summons by telephone or otherwise, any firefighting apparatus or medical apparatus or equipment, shall be guilty of a Class 1 misdemeanor.

(b) Any person who maliciously activates, without just cause, a manual or automatic fire alarm in any structure used for public assembly or for public use, including but not limited to, schools, theaters, stores, office buildings, shopping centers and malls, coliseums and arenas, regardless of whether fire and rescue apparatus responds or not, shall be guilty of a Class 1 misdemeanor.

(c) Before any fire alarm, or fire suppression system receives maintenance, testing, or expansion, or is activated for fire drills, the owner or operator of the alarm or suppression system shall notify the York County Department of Public Safety. Failure to do so is punishable by an administrative penalty not to exceed one hundred dollars to be billed to the owner or operator by the County, and paid within thirty (30) days after billing. Any such penalty remaining unpaid at the expiration of the thirty (30) day period may be collected by the County by civil process in the manner applicable to contract obligations generally.

(d) Any false alarm from a fire alarm caused by mechanical failure, or by lack of maintenance as required by the fire prevention code or caused by a failure to comply with recommendations by the fire official issued in accordance with the fire prevention code, or caused by lack of proper maintenance or mechanical failure, shall be subject to the following:

(1) For each false alarm after three (3) false alarms originating from the same premises within a ninety (90) day period, there is hereby imposed on the owner or tenant of the premises an administrative penalty in the amount of one hundred dollars ($100.00) for each such false alarm. In no event shall a penalty of more than three hundred dollars ($300.00) per day be levied for false alarms originating from the same premises.

(2) The County shall bill the owner or tenant responsible for the false alarm the appropriate amount of penalty as set forth above. All such penalties shall be paid within thirty (30) days of billing. Any such penalty remaining unpaid at the expiration of the thirty (30) day period may be collected by the County by civil process in the manner applicable to contract obligations generally.

(3) If an owner or tenant fails to take corrective action regarding alarm system problems upon notification by the Fire Official and as required under the fire prevention code the person to whom which the notice is served shall be in violation of the fire prevention code and thus guilty of a Class I misdemeanor.

Sec. 11-48. Automatic Dialing Devices.

(a) This section pertains to dialers used to summon County fire, medical, law enforcement and utility services for emergencies.

(b) Except as provided otherwise in this subparagraph, prerecorded message or signaling devices shall not be connected or programmed to the Public Safety Communication Center. All requests for assistance must be made verbally, by telephone or otherwise, by an individual caller. This subparagraph shall not apply to buildings owned or occupied by the York County Government, or by the School Board of York County.

(c) It shall be the responsibility of the owner or tenant of the property served by a fire or intrusion alarm to ensure that the equipment is properly installed, and regularly maintained, and tested, and kept in working order at all times.

Sec. 11-49. Central Stations.

(a) All central stations operated in connection with fire alarm systems shall meet all requirements of Standard 72 of the National Fire Protection Association, "Standard for the Installation, Maintenance and use of Signaling Systems for Central Station Service."

(b) The owner or operator of a central station must provide the fire official with the name, address, and telephone number of at least two individuals having access to all buildings and other structures, and all locked enclosures, which are served by alarms served by the central station. For purposes of this subsection, an individual shall be deemed to have access to the building, structure, or enclosure, only if the individual has within his custody or control a key to the building, structure, or enclosure, or other means to gain ingress.

ARTICLE V. OPEN BURNING

(Effective Date: July 1, 1997)

Sec. 11-50. Title.

This Article shall be known as the York County Ordinance for the Regulation of Open Burning.
(Ord. O97-1(R), 2/5/97)

Sec. 11-51. Purpose.

The purpose of this Article is to protect public health, safety, and welfare by regulating open burning within York County to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This Article is intended to supplement the applicable regulations promulgated by the State Air Pollution Control Board and other applicable regulations and law.
(Ord. O97-1(R), 2/5/97)

Sec. 11-52. Definitions.

For the purpose of this Article and subsequent amendments or any orders issued by the fire official, the following words or phrases shall have the meaning given them in this section:

(a) “Automobile graveyard” means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

(b) "Clean burning waste" means waste which does not produce dense smoke when burned and is not prohibited to be burned under this Article.

(c) "Construction waste" means solid waste which is produced or generated during construction of structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.

(d) "Debris waste" means stumps, wood, brush, and leaves from land clearing operations.

(e) "Demolition waste" means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction waste.

(f) "garbage" means rotting animal and vegetable matter accumulated by a household in the course of ordinary day to day living.

(g) "Hazardous waste" means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

(h) "Household refuse" means waste material and trash normally accumulated by a household in the course of ordinary day to day living.

(i) "Industrial waste" means all waste generated on the premises of manufacturing and industrial operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills.

(j) "Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(k) "landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Solid Waste Management Regulations (VR 672-20-10) for further definitions of these terms.

(l) "Local landfill" means any landfill located within the jurisdiction of a local government.

(m) "Open burning" means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

(n) "Open pit incinerator" means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of

combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and over draft incinerators.

(o) "Refuse" means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.

(p) "Salvage operation" means any operation consisting of a business trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

(q) "Sanitary landfill" means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, and nonhazardous industrial solid waste. See Solid Waste management regulations (VR 672-20-10) for further definitions of these terms.

(r) "Smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

(s) "Special incineration device" means a pit incinerator, conical or teepee burner, or any other device specifically designed to provide good combustion performance.

(Ord**. O97-1(R), 2/5/97)**

Sec. 11-53. Prohibitions on open burning.

(a) No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this Article.

(b) No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities. (Ord No. O97-10, 4/16/97)

(c) No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

(d) No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

(e) Open burning or the use of special incineration devices permitted under the provisions of this Article does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this Article. In this regard special attention should be directed to Section 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

(f) Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in Part VII of the Regulations for the Control and Abatement of Air Pollution or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

(Ord. No. O97-1(R), 2/5/97)

Sec. 11-54. Exemptions.

The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

(a) Open burning for training and instruction of government and public fire fighters under the supervision of the designated official, industrial in-house fire fighting personnel, or for the purpose of training the public in firefighting techniques as approved by the fire official;

(b) Open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;

(c) Open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;

(d) Open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and

(e) Open burning for the destruction of classified military documents.

(Ord. O97-1(R), 2/5/97)

Sec. 11-55. Permissible open burning.

(a) Open burning of tree, yard and garden trimmings that are collected by the County through regular roadside collections is prohibited. However, open burning is permitted for the disposal of leaves located on the premises of private property by the residents of such property, provided that the following conditions are met:

(1) Leaf burning shall not be conducted on Sundays or on local, state, or federal legal holidays, nor shall it occur between the hours of 9:00 p.m. and 9:00 a.m.

(2) Leaf burning shall be conducted in small piles. The term "small pile" shall be governed by common sense, and shall mean generally the smallest size pile which reasonably will allow the leaves to be disposed of effectively.

(3) Leaf burning shall be attended constantly until the fire is completely extinguished.

(4) Water, sand, dirt or fire extinguisher(s) shall be available at the burn site and in quantity sufficient to completely extinguish the fire.

(5) The burn pile shall not be less than two hundred and fifty (250') feet from any occupied dwelling other than a dwelling located on the property where the leaf burning is being conducted.

(6) The location of any open burning shall not be less than fifty feet (50') from any structure, and provisions shall be made to prevent the fire from spreading to within fifty feet (50') of any structure.

(7) No burning shall occur in roadside ditches or on any public or private road.

(8) No burning shall occur in any public or private drainage facility.

(9) No burning shall occur in any environmentally sensitive areas, as defined in Section 24.1-104 of this Code.

(b) Open burning is not permitted for the disposal of household refuse by homeowners or tenants, since regularly scheduled public collection service is available at the adjacent street and public roads throughout the County.

(c) Open burning is permitted for disposal of debris waste resulting from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations which may be approved by the fire official, provided the following conditions are met:

(1) All reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the fire official;

(2) The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;

(3) The burning shall be at least 500 feet from any occupied building unless otherwise approved by the fire official, other than a building located on the property on which the burning is conducted;

(4) The burning shall be conducted at the greatest distance practicable from highways and air fields;

(5) The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;

(6) The burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and

(7) The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

(d) Open burning is permitted for disposal of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas, provided that the following conditions are met:

(1) The burning shall take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board;

(2) The burning shall be attended at all times;

(3) The material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;

(4) All reasonable effort shall be made to minimize the amount of material that is burned;

(5) No materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Polluting Control Board. The exact site of the burning on a local landfill shall be established in coordination with the regional director and the fire official; no other site shall be used without the approval of these officials. The fire official shall be notified of the days during which the burning will occur.

(e) Sections 11-55.A. through D. notwithstanding, on and after January 1, 2000, no owner or other person shall cause or permit open burning or the use of a special incineration device during June, July, or August.

(Ord. O97-1(R), 2/5/97)

Sec. 11-56. Permits.

(a) When open burning of debris waste (Section 11-55.C.) or open burning of debris on the site of a local landfill (Section 11-55.D.) is to occur within the County, the person responsible for the burning shall obtain a permit from the fire official prior to the burning. Such a permit may be granted only after confirmation by the fire official that the burning can and will comply with the provisions of this Article and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by the fire official.

(b) Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the fire official, such permits to be granted only after confirmation by the fire official that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met which are deemed necessary by the fire official to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

(1) All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.

(2) The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material.

(3) The burning shall be at least 300 feet from any occupied building unless the fire official approves otherwise, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the fire official determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased.

(4) The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.

(5) The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

(6) The use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste and clean burning demolition waste.

(7) Permits issued under this subsection shall be limited to a specific period of time deemed appropriate by the fire official.

(c) An application for a permit under Section 11-56.A. or 11-56.B. shall be accompanied by a processing fee of $50.00 per permit, and an additional $25.00 for each required site visit after an initial two visits.
(Ord. 097-1(R), 2/5/97)

Sec. 11-57. Penalties for violation.

(a) Any violation of this Article is punishable as a Class 1 misdemeanor, except for violations of Section 11-55.A(1) - (9), which shall be punishable as a Class 4 misdemeanor.

(b) Each separate incident may be considered a new violation.
(Ord. O97-1(R), 2/5/97)

Sec. 11-58 thru 11-59. Reserved.

ARTICLE VI. AMBULANCE TRANSPORT FEES

Sec. 11-60. Service charge for transport by county emergency medical services vehicle.

(a) Definitions. The following definitions shall apply to this section:

Advanced Life Support, Level 1 (ALS1). Services shall be medical treatment or procedures provided to a patient beyond the scope of an Emergency Medical Technician-Basic (EMT) as defined by the National Emergency Medical Services (EMS) Education and Practice Blueprint.

Advanced Life Support, Level 2 (ALS2). Services shall be defined as advanced life support (ALS) services provided to a patient including one or more of the following medical procedures: (i.) defibrillation/cardioversion, (ii) endotracheal intubation, (iii) cardiac pacing, (iv) chest decompression, (v) intraosseous line, and or (vi) the administration of three or more medications.

Basic Life Support (BLS). Services shall be medical treatment or procedures to a patient as defined by the National Emergency Medical Services (EMS) Education and Practice Blueprint for the Emergency Medical Technician-Basic (EMT).

Emergency medical services vehicle. Shall have the definition specified in Virginia Code Section 32.1-111.1.

Ground transport mileage (GTM). Mileage shall be assessed in statute miles from the scene of the incident to a hospital, other facility or destination where a patient is transported, prorated for portions of miles. A mile for purposes of this definition shall mean a terrestrial mile of 5,280 feet.

(b) Except as otherwise provided by subsection (e) of this section, a service charge for BLS, ALS1, ALS2, and for ground transport mileage is imposed on each person being transported by any emergency medical services vehicle that is operated or maintained by the county or for which a permit has been issued to the county by the Virginia Office of Emergency Medical Services. The funds received from the payment of this fee shall be paid into the general fund of the county to aid in defraying the cost of providing such service.

(c) The county administrator is hereby authorized to bill and collect fees for transport by county emergency medical services vehicle as hereinabove defined and provided by the county and directed to establish rules and regulations for the administration and collection of the charges imposed by this section, including, but not limited to:

(1) Establishment of uniform billing standards allowing the waiver of applicable co-payments and/or deductibles for county residents;

(2) Uniform payment waiver standards for those persons who demonstrate economic hardship to the extent permitted by applicable law;

(3) Full or partial waiver of charges provided under such mutual aid agreements as may be in force from time to time between the county and other localities, which waiver shall be in the same proportion as those waivers received by the residents of the county.

(d) The following rates are hereby established for each level of emergency medical services transport and for mileage:

(1) Basic Life Support (BLS) …$ 450.00

(2) Advanced Life Support, Level 1 (ALS1)…$ 550.00

(3) Advanced Life Support, Level 2 (ALS2)…$ 800.00

(4) Ground Transport Mileage (GTM)…$ 10.00 per mile

(e) No charge shall be imposed on persons in the following instances:

(1) Persons determined to be medically indigent by the county in accordance with administrative policies established by the county administrator;

(2) Persons in the custody of the York-Poquoson Sheriff's Office;

(3) Persons in the custody of the Virginia Peninsula Regional Jail of which the county is a participating member;

(4) During times of declared local emergency when the county administrator has suspended the collection of EMS charges;

(5) Employees and volunteers transported from a county work site for work related injury or illness;

(6) Persons who demonstrate financial hardship in accordance with administrative policies established by the county administrator.

(Ord. No. 09-24, 10/20/09; Ord. No. 15-3, 6/16/15)

CODE OF THE COUNTY OF YORK

Chapter 12

FOOD AND FOOD ESTABLISHMENTS*

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ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Employee. Any person who handles food or drink during preparation or serving or who comes in contact with eating or cooking utensils or who is employed at any time in a room in which food or drink is stored, prepared, sold or served.

Equipment and utensils. Any kitchenware, tableware, cutlery, containers or any other equipment with which food or drink comes in contact during storage, preparation or serving.

Restaurant. Any restaurant, coffee shop, school cafeteria, cafeteria, short order cafe, luncheonette, hotel dining room, tavern, sandwich shop, soda fountain and all other eating and drinking establishments.

Unwholesome food. Any food or drink not fit for human consumption.

Sec. 12-2. Enforcement of chapter.

The health officer shall be responsible for the enforcement of this chapter.

Sec. 12-3. Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor. Each such violation shall constitute a separate offense and each day of violation shall be considered a separate offense.

Sec. 12-4. Examination and condemnation of unwholesome food or drink.

Samples of food and drink may be taken and examined by the health officer as often as he deems necessary for the detection of unwholesomeness. The health officer may condemn, remove and destroy any food or drink which he deems unwholesome.

Sec. 12-5. Protection of bakery products and fresh meat from contamination during deliveries.

Bakery products and fresh meat shall be individually wrapped or otherwise adequately protected from dirt, flies and other contamination during deliveries. Vehicles used for transporting unwrapped bakery products or unwrapped fresh meat shall be kept scrupulously clean.

Sec. 12-6. Regulations as to sale, possession, etc. of oysters, clams or crab meat.

(a) It shall be unlawful for any person to sell, offer for sale or have in his possession any clams or oysters taken, caught, bedded, laid out or floated within any shellfish area restricted by the state department of health or by a shellfish supervising agency in any other state.

(b) It shall be unlawful for any person to keep, sell, serve or otherwise distribute oysters, clams or crab meat which have not been produced, packed, shipped or transported in accordance with the regulations of the state within which such oysters, clams or crab meat were produced or packed. All shipments of oysters, clams or crab meat shall have attached thereto a tag, label or other mark showing that the shipper has been duly approved or certified by the state in which he conducts his operations and certification shall, in the case of oysters and clams, have been approved by the United States Public Health Service. All such oysters, clams or crab meat shall be kept in their original containers with their certification tag and number until used.

Sec. 12-7. Certain concession stands may be exempted.

The provisions of title 35.1, "Hotels, Restaurants, Summer Camps, and Campgrounds" of the Code of Virginia, which pertain to licensing and inspection of restaurants and similar facilities by the State Board of Health shall not be applicable to concession stands at youth athletic activities operated on property owned by the county or School Board of York County by such organizations as the board may from time to time recognize by resolution as being a part of the recreational program of the county for the sole purpose of exempting concession stands operated by them from the aforementioned provisions of Title 35.1 of the Code of Virginia.

Secs. 12-8—12-16. Reserved.

ARTICLE II. RESTAURANTS*

DIVISION 1. GENERALLY

Sec. 12-17. Operating permit.

(a) It shall be unlawful for any person who does not possess an unrevoked permit issued to him by the health officer to operate a restaurant in the county. Such permit shall be conspicuously posted in such restaurant. Persons who meet the requirements of this article shall be entitled to receive such a permit, which shall be valid for one year or any part thereof remaining before the following first day of January.

(b) The health officer may revoke a permit issued under this section, if the restaurant for which it was issued is operated, in any manner, contrary to the provisions of this chapter, or if the owner, operator, manager or any employee thereof violates any provision of this chapter. Upon so doing, the health officer shall immediately notify the sheriff, in writing, of such action. When so revoked by the health officer, the permit shall remain revoked until the violation complained of has been corrected. Upon such correction, the permit shall be reinstated by the health officer.

(c) Upon written advice from the health officer that any restaurant is being operated without the permit required by this section or after its permit has been revoked, the sheriff shall close and padlock the restaurant in question and it shall not be reopened to the public until such permit has been issued or reinstated.

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*__Cross reference—__License tax for restaurants—Generally, Ch. 14; mixed beverage license tax for restaurants, § 14-28.

Sec. 12-18. Inspection.

Restaurants shall be inspected as frequently as deemed necessary by the health officer.

Sec. 12-19. Food handler's permit.

(a) It shall be unlawful for any employee who does not possess an unexpired, unrevoked food handler's permit, as provided in this section, to work in any restaurant. Such food handler's permit shall, in proper case, be issued by the health officer to the employee who shall furnish such information and laboratory specimens and submit to such physical examination and tests as the health officer may require and shall receive such instruction on personal hygiene and restaurant sanitation as may be offered by the health officer. Such food handler's permit shall be secured within thirty (30) days after commencing employment in the county.

(b) Each food handler's permit shall remain in force for six (6) months or until revoked by the health officer for cause and shall be kept filed in a proper place in the place of employment of the holder.

(c) The health officer may, when in his judgment it seems proper, issue a temporary permit to an applicant for a food handler's permit pending the issuance of a food handler's permit as provided in this section, which temporary food handler's permit shall be effective only for so many days as the health officer shall indicate thereon in writing.

Sec. 12-20. Notification of disease among personnel or family members.

Notice shall be sent to the health officer, immediately, by the owner or manager of a restaurant or by the employee concerned, if the manager or any employee or any members of his respective household contracts any infectious, contagious or communicable disease or has a fever, a skin eruption, a cough lasting more than three (3) weeks or any other suspicious symptom. It shall be the duty of any such employee to notify the owner or manager of the restaurant, immediately, when any of such conditions exist. If neither the manager nor the employee concerned notifies the health officer, immediately, when any of such conditions occur, they shall be held jointly and severally to have violated this section.

Sec. 12-21. Procedure when infection suspected.

When suspicion arises to the possibility of transmission of infection from any restaurant employee, the health officer may require any or all of the following measures:

(a) The immediate exclusion of the employee from all restaurants.

(b) The immediate closing of the restaurant concerned until no further danger of disease outbreak exists in the opinion of the health officer.

(c) Adequate medical examinations of employee and of his associates, with such laboratory examinations as may be indicated.

Secs. 12-22—12-26. Reserved.

DIVISION 2. MINIMUM STANDARDS OF OPERATION

Sec. 12-27. Application of and compliance with division.

The provisions of this division constitute the minimum standards of operation under which restaurants shall be operated in the county. No restaurant shall be operated in the county except in compliance with such minimum standards.

Sec. 12-28. Maintenance—Generally.

The surroundings of all restaurants shall be kept clean and free of litter or rubbish.

Sec. 12-29. Floors.

The floors of all restaurants shall be of such construction as to be easily cleaned, shall be smooth and shall be kept clean and in good repair.

Sec. 12-30. Walls and ceilings.

Walls and ceilings of all rooms in which food is served, prepared or stored in a restaurant shall be kept clean and in good condition. Such walls and ceilings shall be finished in light color and have a smooth surface up to the level reached by splash or spray. Such surface shall be washable or replaceable, either or both.

Sec. 12-31. Lighting.

If window space providing lighting is less than ten percent (10%) of the floor area, its equivalent in artificial light shall be provided.

Sec. 12-32. Ventilation; exhaust fans and hoods over ranges.

All restaurants shall be well ventilated. Exhaust fans and metal hoods, equipped with ventilators, over ranges shall be provided when necessary to prevent odors and condensation and to promote cleanliness.

Sec. 12-33. Toilets and sewage disposal.

(a) Adequate approved toilet facilities shall be provided for restaurant employees. Toilets shall be constructed and maintained in accordance with the rules and regulations of the state health department and the provisions of this Code and other ordinances of the county regulating toilets.

(b) Toilets rooms constructed in a restaurant after June 21, 1945, shall not open directly into any room used for the manufacture, storage or handling of food products, but shall be vestibuled. Each

toilet room shall have at least fifteen (15) square feet of floor area.

(c) Flush toilets used in any restaurant shall be provided with self-closing doors and shall be vestibuled. Toilet rooms shall be ventilated by means of a window or a flue, at least eight inches (8") in diameter, leading to the outside. All flush toilets shall be connected to an approved sewer system or provided with a properly constructed septic tank. Walls, floors, seats and commodes shall be clean and a supply of toilet paper shall be provided. The rooms shall be kept free of unnecessary articles, including clothing.

(d) Where a water-carried sewer is not available or where septic tank systems are impossible to install, sanitary pit privies constructed and maintained under the requirements of the health department will be acceptable.

(e) Handwashing signs shall be posted in each toilet room used by employees.

Cross reference—Sewers and sewage disposal, Ch. 18.

Sec. 12-34. Water supply.

Any water supply used at a restaurant shall be properly located, constructed, operated and shall be easily accessible, adequate and of a safe sanitary quality.

Sec. 12-35. Handwashing facilities; cleanliness, etc., of employees.

(a) Adequate handwashing facilities, conveniently located, shall be provided and shall include: hot and cold running water, stationary wash basins, adequate soap and sufficient individual towels.

(b) All employees shall observe a high standard of personal cleanliness and they shall be constantly supervised in this respect by the employer. The hands of all employees shall be washed thoroughly with soap and water after visiting the toilet. Employees, such as clerks, waiters, cooks and the like, shall keep their hands away from the mouth and nose and wash their hands immediately with soap and water should they become contaminated with oral or nasal secretions. Employees shall keep their fingernails short and clean.

(c) All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils or other equipment. Some approved hair covering shall be worn. Employees shall not expectorate or use tobacco in any form in any room in which food is prepared.

Sec. 12-36. Lockers or dressing rooms for employees; containers for soiled linens, coats and aprons.

Adequate lockers or dressing rooms shall be provided for employees' clothing. Soiled linens, coats and aprons shall be kept in covered containers provided for this purpose.

Sec. 12-37. Screening; control of flies, vermin and rodents.

(a) All openings to the outer air shall be effectively screened. Doors shall be self-closing and shall open outward, unless other effective means are provided to prevent the entrance of flies, but it

shall be permissible to place and operate an adequate electric fan over the entrance. All means necessary for the elimination of flies shall be used.

(b) The methods used for the control of flies, vermin and rodents shall be effective at all restaurants.

Sec. 12-38. Operations prohibited in rooms used for domestic purposes.

None of the operations connected with a restaurant shall be conducted in any room used for domestic purposes.

Sec. 12-39. Construction and maintenance of utensils and equipment.

All eating and cooking utensils and all show and display cases, windows, counters, shelves, tables, refrigerating equipment, sinks and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept clean and in good repair.

Sec. 12-40. Washing and bactericidal treatment of utensils.

(a) Adequate facilities shall be provided and maintained for the washing, rinsing and bactericidal treatment of all eating and drinking utensils, each to be a separate and distinct operation, requiring a minimum of a three (3) compartment sink with proper drain boards. Adequate facilities for heating water for cleaning equipment and utensils shall be provided. An approved washing powder shall be used. A sufficient number of dish baskets and sanitary glass storage racks shall be provided.

(b) In washing dishes by hand, one of the following methods of bactericidal treatment shall be used:

(1) Hot water: utensils shall be submerged in hot water at one hundred seventy degrees (170□) Fahrenheit, or more, for at least two (2) minutes.

(2) Chlorine: utensils shall be submerged in a chlorine solution containing not less than one hundred (100) parts per million of residual chlorine for at least two (2) minutes.

Where dishwashing machines are used, the operation of the machine, temperature of wash and rinse waters and retention period of dishes in the machine shall, for the purpose of bactericidal treatment, meet the approval of the health officer.

(c) Nothing contained in this section shall be construed as prohibiting the use of any other equipment or process which has been demonstrated as being of at least equal efficiency and which is approved by the health officer.

Sec. 12-41. Use of poisonous polishes or cleaners on utensils.

No article, polish or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of eating or cooking utensils.

Sec. 12-42. Drying utensils with towel.

The practice of drying eating and drinking utensils with a towel shall not be permitted.

Sec. 12-43. Storage and handling of utensils.

After bactericidal treatment, no utensil shall be stored except in a clean, dry place protected from flies, dust or other contamination and no utensil shall be handled except in such manner as to prevent contamination as far as it is practicable. Single-service utensils shall be purchased only in sanitary containers and shall be stored therein in a clean, dry place until used.

Sec. 12-44. Disposal of wastes; storage of garbage and trash.

All wastes shall be properly disposed of. All garbage and trash shall be kept in suitable covered receptacles, in such manner as not to become a nuisance.
Cross reference—Solid Waste, Ch. 19.

Sec. 12-45. Drain and waste pipes—Generally.

Drain and waste pipes from floors, wash sinks, soda fountains, iceboxes and the like shall be of sufficient size, well trapped and in a good state of repair.

Sec. 12-46. Refrigeration equipment.

Refrigerators, iceboxes and similar equipment shall be of adequate size to store all perishable food and shall be constructed of materials that will permit thorough cleaning. They shall be properly drained and ventilated, shall be equipped with thermometers and kept at a temperature of fifty degrees (50°) Fahrenheit, or lower, at all times, except during periods of defrosting. The floors, walls, ceilings, racks, pipes and other parts of such equipment shall be kept clean. Drains from iceboxes shall not be connected directly to a sewer, but shall drain into an open fixture connected to a sewer or by some other method approved by the health officer.

Sec. 12-47. Quality of food—Generally.

All food and drink shall be clean, wholesome, free from spoilage and so prepared as to be safe for human consumption.

Sec. 12-48. Protection of food from contamination.

Food and drink shall be so stored and displayed as to be protected from dust, flies, vermin, handling, droplet infection, overhead leakage and other contamination.

Sec. 12-49. Animals and fowl prohibited; exceptions.

(a) No animals or fowl shall be kept or allowed in any room in which food or drink is prepared or stored

in a restaurant.

(b) Notwithstanding the provisions of subsection (a) above, it shall be lawful for a blind person accompanied by a guide dog or a deaf or hearing-impaired person accompanied by a dog on a blaze orange leash to take such dog with him into a restaurant.

Cross reference—Animals and Fowl, Ch. 4.

Sec. 12-50. Tables, shelves, napkins, etc.

All tables shall be properly constructed of materials that can be thoroughly and easily cleaned. All table tops shall, when deemed necessary by the health officer, be of nonabsorbent material. Kitchen tables used in the active preparation of food shall be covered with zinc, metal or some other approved impervious material. Table tops shall be free of unnecessary articles. Table covers, napkins and the like shall be clean and all shelves shall be clean, free of unnecessary articles and neatly arranged. All napkins shall be discarded or laundered after each usage.

CODE OF THE COUNTY OF YORK

Chapter 12.5

GAMBLING

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Sec. 12.5-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Gambling device. A "gambling device" includes:

(a) Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in an illegal operation or activity.

(b) Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to, those depending upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, so that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, that the return of the user of nothing more than additional chances or the right to use such machine is not deemed something of value with the meaning of this subparagraph; and provided further, that machines that only sell or entitle the user to items of merchandise of equivalent value that may differ from each other in composition, size shape or color, shall not be deemed gambling devices within the meaning of the subparagraph.

Such devices are no less gambling devices if they indicate beforehand the definite result of one (1) or more operations but not all the operations, nor are they any less gambling devices if, apart from their use or adaptability as such, they also sell or deliver something of value on the basis other than chance.

Illegal gambling. The making, placing or receipt of any bet or wager in the county of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of this county, shall constitute illegal gambling.

Operator. The term "operator" includes any person, firm or association of persons who or which conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

Sec. 12.5-2. Illegal gambling—Generally.

Except as otherwise provided in this chapter, any person who illegally gambles shall be guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gambles, each person therein shall be guilty of illegal gambling.

Sec. 12.5-3. Winning by fraud.

If any person, while gambling, cheats or by fraudulent means wins or acquires for himself or herself or another money or any other valuable thing, such person shall be fined no less than five (5) nor more than ten (10) times the value of such winnings. This penalty shall be in addition to any other penalty imposed under this chapter.

Sec. 12.5-4. Permitting gambling to continue in one's premises.

If the owner, lessee, tenant, occupant or other person in control of any place or conveyance knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified a law-enforcement officer of the presence of such illegal gambling activity, such person shall be guilty of a Class I misdemeanor.

Sec. 12.5-5. Aiding or abetting operation of illegal gambling activity.

Any person, other than those specified in other sections of this chapter, who knowingly aids, abets or assists in the operation of an illegal gambling activity, shall be guilty of a Class 2 misdemeanor.

Sec. 12.5-6. Illegal possession of gambling device.

A person is guilty of illegal possession of a gambling device when such person manufactures, sells, transports, rents, gives away, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of, any gambling device, while believing or having reason to believe that such device is to be used in the advancement of any unlawful gambling activity. Illegal possession of a gambling device shall constitute a Class I misdemeanor.

Sec. 12.5-7. Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise.

All money, gambling devices, office equipment and other personal property used in connection with an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any law-enforcement officer or which shall lawfully come into such officer's custody, shall be forfeited to the county by order of the court in which a conviction under this chapter is obtained. Such court shall order all money so forfeited to be paid over to the county and, by order, shall make such disposition of other property so forfeited as the court deems proper, including the award of such property to any county or state agency or charitable organization for lawful purposes; or, in case of the sale thereof, the proceeds therefrom to be paid over to the county. Such forfeiture shall not extinguish the rights of any person, without knowledge of the illegal use of such property, who is the lawful owner or who has a lien on the same which has been perfected as provided by law.

Sec. 12.5-8. Certain acts not deemed "consideration" in prosecution under chapter.

In any prosecution under this chapter, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing or delivery of an entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding; or any one of more thereof, where no charge is made to, paid by, or any purchase required of him in connection therewith.

Sec. 12.5-9. Exceptions from chapter—Contests of speed or skill.

(a) Nothing in this chapter shall be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles, where participants may receive prizes or different percentages of a purse, stake or premium dependent upon whether they win or lose, or dependent upon their position or score at the end of such contest.

(b) Any participant who, for the purpose of competing for any such purse, stake or premium offered in any such contest, knowingly and fraudulently enters any contestant other than the contestant purported to be entered or knowingly and fraudulently enters a contestant in a class in which such contestant does not belong, shall be guilty of a Class 3 misdemeanor.

Sec. 12.5-10. Same—Games of chance in private residences.

Nothing in this chapter shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games of chance and that there is no operator, as defined in section 12.5-1.

Sec. 12.5-11. Same—Bingo games and raffles permitted by state law.

Nothing in this chapter shall apply to any bingo game or raffle conducted pursuant to and in accord with the provisions of sections 18.2-340.1 through 12.2-340.12, Code of Virginia.

Sec. 12.5-12. Immunity of witness testifying in prosecution under chapter; compulsory testimony.

No witness, called by the county or by the court, giving evidence in any prosecution under this chapter, shall ever be prosecuted for the offense concerning which such witness testifies. Such witness shall be compelled to testify and for refusing to do so may be punished for contempt.

CODE OF THE COUNTY OF YORK

Chapter 13

LIBRARY*

(Repealed, November 21, 2000, Ord. No. 00-19)
(See: Chapter 2, Article V. Library Board)

*__Cross reference—__Reservation of land for libraries and other public uses in subdivisions, Ch. 20.5.

CODE OF THE COUNTY OF YORK

Chapter 14

LICENSES*

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*__Cross references—__Fee for passing bad check to county in payment of taxes, §2-2; dog licenses, § 4-45 et seq.; vehicle licenses, § 15-21 et seq.; pharmacist required for certain business selling proprietary medicines, § 16-35; taxation, Ch. 21.

ARTICLE I. BUSINESS LICENSE TAX IN GENERAL; ADMINISTRATION

Sec. 14-1. Definitions.

(a) Unless it appears from the context that a different meaning is intended, for the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

"Affiliated group" means:

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" include gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation; and

b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the commissioner of revenue or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by the commissioner of revenue when a written notice of assessment is delivered to the taxpayer by the commissioner of revenue or an employee of the commissioner of revenue, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the

last day prescribed by this chapter for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715, Code of Virginia, or unless this chapter provides for a different period for measuring the gross receipts of a business, such as for beginning businesses .

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

"Gross receipts" means the whole, entire, total receipts, without deduction.

"Guidelines" means the most recent edition of the Guidelines for Business, Professional and Occupational License Tax Imposed by City, County and Town Ordinances Issued by the Virginia Department of Taxation, promulgated pursuant to § 58.1-3701, Code of Virginia.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Person" means individuals, firms, partnerships, associations, corporation, and combinations of individuals of whatever form or character including any trustee, receiver, assignee or personal representative thereof engaging in, carrying on or continuing a business, profession, trade or occupation.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations and no others, as the Department of Taxation may list in the Guidelines The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

"Purchases" means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

"Real estate services" means providing a service with respect to the purchase, sale, lease, rental or appraisal of real property.

"Wholesale merchant" means any person who sells to others for resale.

(b) Unless it appears from the context that a different meaning is intended, for the purposes of this chapter, any word or phrase that is used in this chapter which is not defined in this section, and which is defined in the Guidelines, shall have the meanings ascribed to them in the Guidelines.

Sec. 14-2. Exemptions.

(a) No person having gross receipts or purchases from all businesses engaged in totaling in the aggregate one hundred thousand dollars ($100,000.00) or less in any license year shall be required to pay any license tax; however, all such persons shall apply for the license required and shall pay an administrative fee as set forth below. This exemption shall not apply to those businesses upon which taxes are imposed by subsection 14-28(a), (b) and (c), and paragraphs 14-28(d)(2), (4), (5), and (6). Businesses taxed on gross receipts over $100,000 shall not be required to pay a license fee.

Gross receipts	Administrative fee
$1.00 to $4,000	$ 1.00
$4,001 to $25,000	$30.00
$25,001 to $100,000	$50.00
$100,000 and over	None

(Ord. No. O97-26, 10/1/97)

(b) As required by § 58.1-3703.C., Code of Virginia, no license fee or license tax shall be imposed on the following:

1. On any public service corporation except as provided in § 58.1-3731, Code of Virginia, or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of the county; provided, such products are grown or produced by the person offering such products for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;

5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713, Code of Virginia;

6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the county. This subdivision shall not be construed as prohibiting the county from imposing a local license tax on a peddler at wholesale pursuant to § 58.1-3718, Code of Virginia;

7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto

courts, tourist courts, travel trailer parks, lodging houses, rooming houses and boardinghouses;

8. Upon a wholesaler or retailer for the privilege of selling bicentennial medals on a nonprofit basis for the benefit of the Virginia Independence Bicentennial Commission or any local bicentennial commission;

9. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Chapter 3, Article 2 (§ 13.1-312, et seq.), Title 13.1, Code of Virginia, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

10. On or measured by receipts or purchases by a corporation which is a member of an affiliated group of corporations from other members of the same affiliated group. This exclusion shall not exempt affiliated corporations from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax on an affiliated corporation on those sales by the affiliated corporation to a nonaffiliated person, company, or corporation, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated corporation. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated person, company, or corporation. As used in this subdivision the term "sales by the affiliated corporation to a nonaffiliated person, company or corporation" shall mean sales by the affiliated corporation to a nonaffiliated person, company or corporation where goods sold by the affiliated corporation or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated person, company or corporation.

11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title 58.1, Code of Virginia, or on any agent of such company;

12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this title 58.1, Code of Virginia;

13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for which the taxicab driver operates;

14. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped, or a nominee of the Department, as set forth in § 63.1-164, Code of Virginia;

15. On any hospital, college, university or other institution of learning not organized or conducted for pecuniary profit which by reason of its purpose or activities is exempt from income tax under the laws of the United States unless such tax was enacted by the local governing body prior to January 15, 1991. The provisions of this subdivision shall expire on July 1, 1997;

16. Upon any person who is authorized to celebrate the rites of marriage under §§ 20-23 and 20-25, Code of Virginia, and any person who is authorized to solemnize a marriage under § 20-26, Code of Virginia, provided such gross annual receipts total no more than $500; or

17. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. "Accredited religious practitioner" shall be

defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

18. a. On or measured by receipts of a charitable nonprofit organization, except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "charitable nonprofit organization" means an organization which is described in Internal Revenue Code § 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning;

b. On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration which are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Code § 501 other than charitable nonprofit organizations; or

19. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located provided the locality is otherwise authorized to tax such businesses and rental of real estate.

Sec. 14-2.1 Situs of gross receipts; exclusions and deductions from gross receipt.

(a) *General rule as to situs of gross receipts.* Whenever the tax imposed by this chapter is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within the County. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715, Code of Virginia;

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesale or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality;

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of such property is managed; and

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

(b) *Apportionment*. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the County solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements*. The commissioner of revenue may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the commissioner of revenue shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the commissioner of revenue or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701, Code of Virginia; notice of the request shall be given to the other party.

(d) Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business. The following items are excluded:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a business subject to licensure not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(e) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of sale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

Sec. 14-3. Application for license; duties of commissioner.

(a) Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in the County on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the commissioner of revenue. Every person shall apply for a license for each business or profession when engaging in a business in the County if (i) the person has a definite place of business in the County; (ii) there is no definite place of business anywhere and the person resides in the County; or (iii) there is no definite place of business in the County but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to § 58.1-3715, Code of Virginia, or public services corporation.

The commissioner of the revenue shall furnish the necessary forms to all existing businesses by January 15 of each year, which forms shall be properly filled in by the applicant with such information as the commissioner may require. Every applicant for a license to conduct any business, profession, trade or occupation under the provisions of this chapter shall furnish the commissioner of the revenue in writing with the applicant's correct name and trade name; the applicant's correct residence address; the nature of the business, profession, trade or occupation to be pursued; the place where it is to be pursued; and the record of gross receipts required by section 14-8, as well as such other information as may be required by the commissioner of the revenue. The commissioner shall compute the amount of license tax and after payment is certified by the treasurer shall issue the license.

(b) It shall be unlawful and a violation of this chapter for any person to make false statements in any application, return or affidavit required by this chapter.

(c) No license shall be issued in any case for the first time or be transferred until the commissioner shall have received from the county administrator written certification that conduct of the proposed business or profession as and where proposed will not constitute or cause a violation of any law of the commonwealth or ordinance of the county. Such certification shall not be required of any person whose principal place of business is outside the county and who has no permanent office or place of business within the county. No license shall be issued to any person transacting business under any assumed or fictitious name who is required by section 59.1-74, Code of Virginia, to file a certificate setting forth such with the clerk of the circuit court, until evidence of such filing is produced before the commissioner of revenue.

(d) The commissioner of the revenue, in performing his duties, shall have authority to require any person having a contractor's license in the county to furnish a complete list of subcontractors to whom any part of the original contract is sublet, and the amount of such subcontract. Failure to supply a complete list shall be deemed a violation of this chapter and shall be punished as provided in section 14-15.

(e) The commissioner of the revenue shall require all parties prosecuting any business, employment or profession, to make application, and/or procure such license and pay the tax and/or application fee therefore.

(f) No license issued pursuant to this chapter shall be valid or effective unless and until the tax and/or application fee required, if any, shall be paid to the treasurer.

(g) In any case in which the commissioner of the revenue shall deem it advisable, he may investigate and ascertain whether any person has failed to make application for a license or has failed to make a correct application, and to that end the commissioner is authorized and empowered to summons

such person before him and require the production of any and all records, books and papers pertinent to the matter under investigation and may require such person to answer under oath questions touching the tax liability of such person. The commissioner shall also be authorized and empowered to make or cause to be made such other and further investigations, examinations and audits of the records, books and papers of such person as he shall deem proper in order to determine accurately the proper return to be made by such person. The failure of any such person to appear before the commissioner or to furnish the commissioner the required records shall be deemed to be a violation of this chapter and shall be punishable as set forth herein.

(h) The commissioner of the revenue shall report monthly to the treasurer the aggregate amount of license taxes assessed during the month and placed in the hands of the treasurer for collection. The treasurer shall report delinquents to the county administrator.

Sec. 14-4. Duty of applicant to ascertain zoning.

It shall be the duty of every person applying for a business license or for the transfer of a business license from one location to another or from one person to another to ascertain whether the location for the conducting of such business, trade or occupation is properly zoned and has any necessary use permit before making application for such business license as may be required. The commissioner of the revenue, in any case where he suspects the location is not properly zoned for the type of business, trade or occupation proposed by the application, shall refuse to issue such business license until a certificate is issued by the zoning administrator stating that the location is properly zoned and the necessary use permit, if any, has been granted. The issuance of a business license by the commissioner shall not be deemed to be approval by the county of zoning compliance.

Sec. 14-5. Determination of gross receipts for beginning businesses and businesses not in existence for the entire previous year.

(a) Every person beginning a business, profession, trade or occupation which is subject to a license tax under the provisions of this chapter shall estimate the amount of gross receipts between the date of beginning business and the end of the then current license year. The license tax for the current year shall be computed on such estimate. The amount of license tax for the license year immediately following the license year of beginning business shall be estimated on a pro rata basis using the actual gross receipts received in the portion of the beginning license year during which the business was operating. Whenever a license tax is computed upon an estimate of gross receipts, such estimate shall be subject to adjustment by the commissioner of the revenue at the end of the license year to reflect actual gross receipts, and he shall give credit for any overpayment or shall impose an additional charge for any underpayment on the license tax payable the following year. Upon application of the licensee, the commissioner shall authorize in lieu of a credit a refund in accordance with section 14-14.

(b) In the event any person required to pay a license tax under the provisions of this chapter, when the tax is not measured by gross receipts or graduated in any other way, shall begin any business, occupation or profession after the first day of January of any year, the license tax shall be prorated on a monthly basis, one-twelfth of the annual license tax to be assessed for each month or portion thereof for the remainder of the license year, except as otherwise provided in this chapter. No such tax shall be subject to proration when the license tax for the whole year would be fifty dollars ($50.00) or less.

Sec. 14-6. Each place of business to have separate license.

(a) No license shall be issued under the terms of this chapter to cover more than one (1) place of business, and applicants shall be required to take out separate licenses for each definite place of business in which the business, profession, trade or occupation to be licensed is pursued. Any person prosecuting a business in more than one (1) definite place and keeping one (1) set of records for the accumulated transactions may take out a minimum license on each location other than the main place of business in the county and may deduct such sums paid for the minimum license from the total tax due when all gross receipts are attributed to such main place of business.

(b) If any person is engaged in two (2) or more businesses, professions, trades or occupations all subject to the same rate, all measured by the same base, and all carried on at the same place of business, he may obtain one (1) license for all such businesses, professions, trades, or occupations, if all of the following criteria are satisfied: (i) each business, profession, trade or occupation is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the County; (ii) all of the businesses, professions, trades or occupations are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all of them at the highest rate; and (iii) the taxpayer agrees to supply such information as the commissioner may require concerning the nature of the several businesses and their gross receipts.

(c) In the event the conduct of business, profession, trade or occupation at a single location involves operations subject to more than one (1) rate or computed on more than one base, as hereinafter set forth, the licensee is required to maintain separate accounts for each such operation and shall be separately licensed for such operation; provided, however, that the licensee may elect to maintain a single account for all operations taxed on gross receipts, in which case the entire business tax on gross receipts shall be computed at the highest rate applicable to any part of the business taxed on gross receipts.

Sec. 14-7. Display of license.

Every person required to obtain a license under the provisions of this chapter shall keep the form, tag, button, or sign issued in evidence thereof in a convenient and conspicuous place, and whenever required to do so shall exhibit the same to any authorized enforcement officer of the county. Every license issued under the provisions of this chapter shall be deemed to confer a personal privilege to transact, carry on, or conduct the business, profession, trade, or occupation which may be subject to the license, and shall not be exercised except by the person licensed.

Sec. 14-8. Record keeping requirements.

(a) Each licensee whose license is measured by gross receipts shall submit to the commissioner of the revenue, not later than March 1 of each year, a return verified by oath of the licensee's gross receipts for the preceding license year.

(b) Every person liable for a license tax under this chapter which is based on gross receipts shall keep all records and accounts necessary to compute and to verify such gross receipts and the report of such gross receipts shall be taken from such records. All such records and general books of accounts shall be open to inspection and examination by the commissioner of the revenue or his authorized agent and shall be maintained for three (3) years following any license year. The

commissioner of the revenue shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the County, copies of the appropriate books and records shall be sent to the commissioner of revenue's office upon demand.

(c) Every person who fails to keep books and records as required by this section shall be deemed to be in violation of this chapter and subject to the penalties set forth in section 14-11.

Sec. 14-9. Transfer of license.

Licenses issued under this chapter, except as otherwise provided, may be transferred from one person to another or from one location to another; provided, that no such transfer shall be valid unless and until notice in writing be given to the commissioner of the revenue of the proposed transfer, which notice shall contain the name, trade name, if any, of the proposed transferee, the proposed new location, if any, and the date of the proposed transfer. Such notice shall be signed by both the proposed transferor and transferee of the license and shall be accompanied by a transfer fee of twenty-five dollars ($25.00). The commissioner of the revenue shall approve such transfer upon being satisfied that such transfer is in good faith and is not being made to avoid any provisions of this chapter. No transfer shall be made if the transferor is delinquent in payment to the county of any business license, business personal property, meals or transient occupancy taxes. Failure to notify the commissioner of the revenue of a transfer of a license within thirty (30) days of such transfer shall invalidate such license. If a transferor's license for the current license year has been based on an estimate of gross receipts as provided in section 14-5 of this chapter, the transferor shall reveal its gross receipts for the period it was in business during the current license year, and if the accumulation of gross receipts at the time of transfer shall exceed the original estimate, the transferee shall be required to amend the license by an estimate of the gross receipts it will incur between the day of beginning business and the end of the current license year and pay any additional license tax due.

Sec. 14-10. Payment of tax; extensions of time.

(a) Any license taxes imposed by this chapter, except as herein provided, which are not based on gross receipts, shall be paid with the application for a license. If the license tax is measured by the gross receipts of the business, the tax shall become due and payable on or before March 1 of each license year. In all cases where the person shall begin the business, profession, trade or occupation upon which a license tax is imposed after the first day of January of each year, such license tax shall become due and payable within thirty (30) days of the time such person engages in business in the county. All licenses issued and license taxes imposed under the provisions of this chapter upon the gross receipts of a business, trade or occupation conducted by a corporation or partnership shall be issued to and paid by the corporation or partnership, and when so paid, it shall be deemed to discharge the license tax liability of the members of such partnership insofar as it relates to partnership business.

(b) The commissioner of revenue may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent (10%) of the portion paid after the due date.

Sec. 14-11. Penalty for failure to pay license tax when due.

(a) A penalty of ten percent (10%) of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the commissioner of revenue if both the application and payment are late; however, both penalties may be assessed if the commissioner of revenue determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the commissioner of revenue, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the commissioner of revenue is not paid within thirty (30) days, the treasurer may impose a ten percent (10%) late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extension (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the commissioner of revenue who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(b) Interest at the rate of ten percent (10%) per annum shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later.

Sec. 14-12. Assessment and payment of additional or omitted taxes due; extensions; limitations.

(a) If the commissioner of the revenue ascertains that any person has not been assessed with a license tax, or has been assessed with less than the proper amount of license tax levied under the terms of this chapter for any license year of the three (3) license years past, it shall be the duty of the commissioner of the revenue to assess such person with the proper license tax for the year or years involved, adding thereto the penalty and interest set forth in section 14-11. If, in the opinion of the commissioner, the absence of the assessment was not the fault of the taxpayer, such penalty and interest shall begin to accrue after thirty (30) days from the date of assessment until payment.

(b) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the commissioner of revenue and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Notwithstanding subsection (a) above and the provisions of § 58.1-3903, Code of Virginia, the commissioner of revenue shall assess any local license tax omitted because of fraud or failure to apply for a license for the current license year and the six (6) preceding license years.

(d) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, Code of Virginia, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to the provisions of Section 14-14.1, or two years after the final decision in a court application pursuant to § 58.1-3984, Code of Virginia, or similar law for which collection has been stayed, whichever is later.

Sec. 14-13. Refunds to persons ceasing to engage in business.

In the event any person ceases to engage in a business, profession, trade or occupation in the county during the year for which a license tax has been paid, such person shall be entitled, upon application, to a refund for that portion of the license tax already paid, prorated on a monthly basis so that the tax shall be paid only for that fraction of the year during which business was actually conducted. Refunds shall be processed in the same manner as other refunds of local taxes. Notwithstanding the provisions of this section, no refund shall be made of any minimum flat tax or of any other flat license fee not based on gross receipts. Interest on any refund shall be paid at the rate of ten percent (10%) per year.

Sec. 14-14. Certification of erroneous assessments; refunds.

(a) The commissioner of the revenue is empowered to certify to the board of supervisors any instances of erroneous assessments over $2,500. Upon receipt of such certificate, consented to by the county attorney and approved by the board of supervisors, the treasurer is directed to make a refund. If any person seeking a refund is indebted to the county or any department or office thereof or is indebted to any state constitutional office of the county for a local levy or charge, the refund or so much thereof as is necessary for full satisfaction shall first be applied to such indebtedness.

(b) Whenever an assessment of additional or omitted tax by the commissioner of revenue is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any license tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the rate of ten percent (10%) per year.

(c) No interest shall be paid on a refund provided the refund is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(d) In lieu of a refund, a credit may be applied to future license tax assessments at the request of the taxpayer.

Sec. 14-14.1. Appeals and rulings.

(a) Any person assessed with a local license tax as a result of an appealable event as defined in this section may apply within one (1) year from the date of the appealable event, whichever is later, to the commissioner of revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The commissioner of revenue may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or a further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The commissioner of revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an appealable event shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed (e.g., the name and address to which an application should be directed.

(b) Provided a timely and complete application is made, collection activity shall be suspended until a final determination is issued by the commissioner of revenue, unless the commissioner of revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 14-11, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to (i) depart quickly from the County; (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a local license tax as a result of a determination, upon an application for correction pursuant to subdivision (a) of this section, that is adverse to the position asserted by the taxpayer in such application may apply within ninety (90) days of the determination by the commissioner of revenue to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the commissioner of revenue are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1-1821, Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to § 58.1-1822, Code of Virginia. Following such an order, either the taxpayer or the commissioner of revenue may apply to the appropriate circuit court pursuant to § 58.1-3984, Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the Tax Commissioner, the commissioner of revenue shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the commissioner of revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 14-11, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth above.

(e) Any taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the commissioner of revenue. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the commissioner of revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(f) For purposes of this section, "appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the commissioner of revenue's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment, (ii) determination regarding the rate or classification applicable to the licensable business, (iii) assessment of a local license tax when no return has been filed by the taxpayer, or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

(g) Any taxpayer whose application for correction pursuant to the provisions of subdivision (a) above has been pending for more than two years without the issuance of a final determination may, upon not less than thirty days' written notice to the commissioner of revenue, elect to treat the application as denied and appeal the assessment to the Tax Commissioner in accordance with the provisions of subsection (c). In accordance with § 58.1-3703.1 (A)(5)(g), Code of Virginia, the Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of final determination on the part of the assessor was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the assessor to make his determination.

(Ord. No. 02-9, 7/16/02)

Sec. 14-15. Violations and penalties.

It shall be unlawful and constitute a misdemeanor for any person to conduct a business or to engage in a profession, trade or occupation before procuring a license as required under the provisions of this chapter. It shall also be unlawful and constitute a misdemeanor for any person to violate any other provisions of this chapter. Any person who is convicted of violating any of the provisions of Articles I or II of this chapter shall be punished by a fine not to exceed three hundred dollars ($300.00). Each day any person shall continue to violate any of the provisions of this chapter shall constitute a separate offense. Any criminal prosecution brought under this section shall not be deemed to relieve any person from any civil liability for the tax due including penalty and interest. The collection of any tax imposed under this chapter may be enforced by any remedy allowed under the laws of the Commonwealth of Virginia.

Sec. 14-16. Chapter not contrary to federal or state law.

(a) No provision of this chapter shall be construed as imposing any license tax on any business, occupation, or professional employment on which the county is prohibited by federal or state law from imposing the same.

(b) All questions of situs and taxability of any business within the county shall be determined in accordance with sections 58.1-3708, 58.1-3709 and 58.1-3715, Code of Virginia, and any amendments thereto.

(c) In the event of a conflict between any provision of this chapter and any provision of state law, the provisions of state law shall control.

Sec. 14-17. Effective date.

Articles I and II of this chapter shall be in effect for all license years beginning on and after January 1, 1997.

Sec. 14-18. Repeal of certain provisions of former chapter 14.

Effective January 1, 1997, the provisions of former chapter 14 of this Code, except as incorporated in this amended chapter 14, are hereby repealed. This repeal shall in no way affect the tax liability accruing to any person under the former provisions of former chapter 14.

Secs. 14-19—14-25. Reserved.

ARTICLE II. BUSINESS LICENSE TAX SCHEDULES AND CLASSIFICATIONS

Sec. 14-26. Tax schedules.

Except as otherwise provided in this chapter, every person whose gross receipts from a business, profession or occupation subject to licensure exceeded $100,000 during the preceding license year shall pay a tax levied on such gross receipts in accordance with the following schedule:

(a) *Contractors*. Every person conducting or engaging in the business of contracting and persons constructing on their own account for sale shall pay an annual license tax of sixteen cents ($0.16) per one hundred dollars ($100.00) of gross receipts in the preceding license year. The term "contractor" shall be defined and construed in accordance with the provisions of section 14-27.

(b) *Retail sales*. Every person conducting or engaging in the business of retail sales shall pay an annual license tax of twenty cents ($0.20) per one hundred dollars ($100.00) of gross receipts in the preceding license year, unless, as to gas retailers, the amount of tax in any year is limited by operation of Code of Virginia section 58.1-3706. The term "retail sales" shall be defined and construed in accordance with the provisions of section 14-27.

(c) *Financial, real estate, and professional services*. Every person conducting or engaging in the business of financial, real estate and/or professional services shall pay an annual license fee of fifty-eight cents ($0.58) per one hundred dollars ($100.00) of gross receipts in the preceding license year. The term "financial, real estate, and professional services" shall be defined and construed in accordance with the provisions of section 14-27.

(d) *Repair, personal, business, and other services*. Every person conducting or engaging in the business of repair, personal or business service or any other business or occupation not specifically listed or excepted herein shall pay an annual license tax of thirty-six cents ($0.36) per one hundred dollars ($100.00) of gross receipts in the preceding license year. The term "repair, personal, business and other services" shall be defined and construed in accordance with the provisions of section 14-27.

(e) *Wholesale merchants*. Every person conducting or engaging in the business of a wholesale merchant shall pay an annual license fee of five cents ($0.05) per one hundred dollars ($100.00) of gross purchases in the preceding license year.

(f) *Telephone and telegraph companies*. Every person providing telephone and telegraph communications in the county shall pay for the privilege an annual license tax equal to one-half of one percent (0.5%) of the gross receipts during the preceding license year from business accruing to such person from any such business in the county. Charges for long distance calls shall not be considered receipts from business in the county.

(g) *Heat, light, power, water, and gas companies*. Every person furnishing heat, light, power, water or gas for domestic, commercial, governmental or industrial consumption in the county (except as of January 1, 2001, electric suppliers, gas utilities and gas suppliers as defined in Code of Virginia 58.1-400.2 and pipeline distribution companies as defined in Code of Virginia section 58.1-2600) shall pay for the privilege an annual license tax equal to one-half of one percent (0.5%) of the gross receipts of such business derived from within the county during the preceding license year.

(Ord. No. 06-14, 6/27/06Ord. No. 06-29, 10/17/06)

Sec. 14-27. Classification of business.

The classification of any particular business for the purpose of imposing a license tax shall be made in accordance with the guidelines set forth in this section:

(a) Contractors.

(1) A contractor, for the purposes of this classification, shall be any person who accepts or offers to accept:

a. Orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any building material;

b. Contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways, on public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;

c. Any order for or contract to excavate earth, rock or other material for foundation or any other purpose, or for cutting, trimming or maintaining rights-of-way;

d. An order or contract to construct any sewer of stone, brick, terra cotta or other material;

e. Orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing or maintaining of electric wiring devices or appliances permanently connected to such wiring, or the erecting, installing, repairing or maintaining of lines for the transmission or distribution of electric light or power;

f. An order or contract to remodel, repair, wreck or demolish a building;

g. An order to contract to bore or dig a well;

h. An order to contract to install, maintain or repair air-conditioning apparatus or equipment.

(2) Contracting generally includes, but is not limited to, persons engaged in the following occupations, businesses or trades:

Air-conditioning
Brick contracting and other masonry
Building
Cementing
Dredging
Electrical contracting
Elevator installation
Erecting signs which are assessed as realty
Floor scraping or finishing
Foundations
House moving

Paint and paper decorating
Plastering
Plumbing, heating, steamfitting
Refrigeration
Road, street, bridge, sidewalk or curb and gutter construction
Roofing and tinning
Sewer installation and well digging
Sign painting
Structural metal work
Tile, glass, flooring and floor covering installation
Wrecking, moving or excavating

(3) A person is not a contractor if he is engaged in the business of selling and installing air-conditioning units that are placed in windows or other openings with frames and require no ducts. The permanent installation of a unit in the wall of the building is contracting.

(4) Any person engaged in the business of selling and erecting or erecting tombstones is not a contractor, but is engaged in either retail or wholesale sales.

(5) Any person engaged in the business of wrecking or demolishing a building and who then sells the materials obtained is engaged in retail or wholesale sales as to the sale of the materials.

(6) Soliciting business for a contractor is not contracting but is a business service.

(7) Every contractor, whether a general contractor or a subcontractor, is a contractor for the purposes of local license taxation. The imposition of a license on the gross receipts of a general contractor and also a subcontractor is not double taxation. Each is engaged in business in his own right and licensable accordingly.

(8) A person who merely sells a prefabricated building or structure is not a contractor, but if the person or a subcontractor for that person erects the building or structure, then the seller is a contractor.

(9) Any person who sells floor coverings and furnishes and installs the floor covering under a contract with a general contractor (whether the covering be carpet, linoleum, tile or other covering) is a contractor. If floor coverings are sold at retail and installed as part of or incidental to the sale, then the transaction is not contracting but a retail sale.

(10) If the installation of an appliance requires the running of electrical, water or gas lines or service outlets, or the performance of any other function previously defined as contracting, then the installation is contracting.

(11) The mere hauling of sand, gravel and dirt is not contracting but is a business service.

(12) Whether a person is a contractor or employed as a laborer depends on the facts in each case. The elements to be considered in making the distinction include, but are not limited to, the method of compensation, who supplies the materials and primarily who has the right to control.

(13) Persons constructing for their own account for sale shall be included in the contracting category for the purpose of calculating the business license tax and this category shall include speculative builders and developers.

(14) A contractor who has his principal office outside the county, and conducts business exceeding twenty-five thousand dollars ($25,000.00) in the county, shall obtain a business license and shall pay the tax based on receipts from business conducted in the county.

(b) Retail sales.

(1) Definitions:

a. *Retail sales*. The sale of goods, wares and merchandise for any purpose other than resale.

b. *Retail merchant*. Any person who makes retail sales.

c. *Peddler*. Any person who carries from place to place any goods, wares or merchandise and offers to sell or actually sells and delivers at the same time is a peddler. Any person who does not keep a regular place of business, whether it be a house or vacant lot or elsewhere, with regular business hours, but at that place offers to sell goods, wares and merchandise, is a peddler. Any person who keeps a regular place of business, with regular business hours at the same place, who other than at the regular place of business, personally or through agents offers for sale or sells and, at the time of such offering for sale, delivers goods, wares and merchandise is a peddler.

d. *Itinerant merchant*. Any person who engages in, does or transacts any temporary or transient business in Virginia, either in one locality or in traveling from place to place in the sale of goods, wares, and merchandise and who for the purpose of carrying on such business hires, leases, uses or occupies any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or house of private entertainment, or in any street, alley or public place in any city or town, or any public road in any county, for a period of less than one (1) year, for the exhibition of or sale of goods, wares or merchandise.

(2) Any peddler or itinerant merchant who sells goods, wares or merchandise at retail is engaged in retail sales and shall be subject to local license taxation as such but in an amount not to exceed the rate set forth in section 14-28.

(3) Any person engaged in repair service who sells parts in addition to or as part of the repair service, is engaged in retail or wholesale sales as to the sales of the repair parts.

(4) Banks and savings and loan associations that sell promotional items are engaged in retail sales as to the sales of the promotional items and are not exempt from local license taxation as to those sales.

(5) In the sale of blank checks, a bank is not engaged in retail sales as to the sales of blank checks if the customer places an order for the checks directly with the printer and authorizes the bank to collect for the printer by charging his account, and the bank is not obligated to pay for the checks except insofar as it honors the customer's authorization. If, however, the customer places his order with the bank, and the bank contracts with the printer and is liable to the printer, whether or not the bank actually collects from the customer, then the bank is engaged in retail sales.

(6) A charitable institution or other not-for-profit organization that engages in the business of buying and selling merchandise may be subject to a local license tax as a retail or wholesale merchant, even though the proceeds are subsequently used for charitable purposes.

(7) A lunch counter operated by an organization open to members only, the proceeds from which are used to maintain the organization, may be subject to local license tax.

(8) Any hotel, motel, boardinghouse or lodging house which also furnishes or sells food or merchandise for compensation is engaged in retail sales as to the sales of the food or merchandise.

(9) A person is not subject to a local license tax if his business in this state is limited solely to the solicitation of orders by catalogs mailed from outside this state to mail-order buyers in this state and who fills orders from outside this state. However, if the catalogs are distributed by a Virginia resident by mail or in person or if the person engaged in the mail-order business has a definite place of business in this state at which mail orders are received or filled, the mail order business may be treated the same as any other retail or wholesale business for purposes of local license taxes.

(10) Any person who merely fills prescriptions for or fits corrective lenses and eyeglass frames is a retail merchant. However, any practitioner who examines eyes is engaged in rendering a professional service.

(11) Any practitioner of a profession who sells goods, wares or merchandise in connection with the practice of the profession may be engaged in making retail sales, depending on the nature of the products sold and the service performed. Examples in this area are as follows:

a. A medical doctor who engages in the sale of drugs or other goods, wares or merchandise as well as the practice of medicine is a merchant as to those sales. However, a medical doctor is not a merchant as to the drugs used in giving an immunization to a patient.

b. A chiropodist who sells shoes in connection with his practice is a retail merchant as to such sales.

(12) A job printer is a manufacturer and is engaged in either retail or wholesales sales as to the sales of the items printed.

(13) The sales price alone is not determinative of whether the sale is at retail or wholesale. The fact that a person sells goods, wares or merchandise at wholesale prices, at cost or at less than cost does not prevent the person from being classified as a retail merchant if the sales fall within the definition of a retail sale.

(14) Any person who purchases rough stone already cut and who then polishes, glazes and cuts lettering in the stone is not a manufacturer and is engaged in either retail or wholesale sales.

(15) Any person who sells goods at retail through a commission merchant may be held liable for a local license tax as to such sales.

(16) Any person engaged in the short-term rental business, as defined in section 21-120.

(c) Financial, real estate and professional services.

(1) Financial service. Any person rendering a service for compensation in the form of a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange is providing a financial service, unless such service is specifically provided for under another section.

(2) Those engaged in rendering financial services include, but are not limited to the following:

Buying installment receivables
Chattel mortgage financing
Consumer financing
Credit card services
Credit unions
Factors
Financing accounts receivable
Industrial loan companies
Installation financing
Inventory financing
Loan or mortgage brokers
Loan or mortgage companies
Safety deposit box companies
Security and commodity brokers and services
Stockbrokers
Working capital financing

(3) Any person other than a national bank or a bank or trust company organized under the laws of this state, or a duly licensed and practicing attorney at law, that engages in the business of buying or selling for others on commission or for other compensation, shares in any corporation, bonds, notes or other evidences of debt is a stockbroker. The fact that orders are taken subject to approval by a main office does not relieve the broker from local license taxation. Also, an insurance company engaged in selling mutual funds is a broker as to that portion of its business.

(4) Any person rendering a service for compensation as lessor, buyer, seller, agent or broker is providing a real estate service, unless the service is specifically provided for under another section.

(5) Those rendering real estate services include, but are not limited to, the following:

Appraisers of real estate
Escrow agents, real estate
Fiduciaries, real estate
Lessors of real property
Real estate agents, brokers and managers
Real estate selling agents
Rental agents for real estate

(6) A person is engaged in providing a professional service if engaged in rendering any service specifically enumerated below or engaged in any occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests

or welfare in the practice of an art or science founded on it. The word profession implies attainment in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others as a vocation.

(7) Those engaged in rendering a professional service include, but are not limited to the following:

Architects
Attorneys-at-law
Certified public accountants
Dentists
Engineers
Land surveyors
Pharmacists
Practitioners of the healing arts (as defined in Virginia Code section 54.1-2900).

(8) The performing of services dealing with the conduct of business itself, including the promotion of sales or services of such business and consulting services, do not constitute the practice of a profession, even though the services involve the application of a specialized knowledge.

(9) Certification as a professional by itself is not sufficient to establish liability for local license taxation. Also, the fact that a professional is compensated by means of a salary is not sufficient by itself to relieve that professional from local license tax liability.

(10) Gross receipts for purposes of local license taxation as a professional include only those gross receipts obtained from the practice of that profession as a business, whether it be on a full or part-time basis, in corporate, partnership, sole proprietorship or association form.

(d) Repair, personal, business and other services.

(1) The repairing, renovating, cleaning or servicing of some article or item of personal property for compensation is a repair service, unless the service is specifically provided for under another section.

(2) Any service rendered for compensation either upon or for persons, animals or personal effects is a personal service, unless the service is specifically provided for under another section.

(3) Any service rendered for compensation to any business, trade, occupation or governmental agency is a business service, unless the service is specifically provided for under another section of these guidelines.

(4) Those rendering a repair, personal or business service or other service include, but are not limited to the following:

Advertising agencies
Airports
Ambulance services
Amusements and recreation services (all types)
Animal hospitals, grooming services, kennels or stables
Auctioneers and common criers

Automobile driving schools
Barber shops, beauty parlors, and hairdressing establishments, schools and services
Bid or building reporting service
Billiard or pool establishments or parlors
Blacksmiths or wheelwrights
Bondsman**
Booking agents or concert managers
Bottle exchanges
Bowling alleys
Brokers and commission merchants other than real estate or financial brokers
Business research and consulting services
Cable television services
Chartered clubs
Child care attendants or schools
Collection agents or agencies
Commercial photography, art and graphics
Commercial sports
Dance halls, studios and schools
Data processing, computer and systems development services
Developing or enlarging photographs
Drafting services
Engraving
Erecting, installing, removing or storing awnings
Freight traffic bureaus
Fumigating or disinfecting
Funeral services and crematories
Golf courses, driving ranges and miniature golf courses
Hauling of sand, gravel or dirt
Hotels, motels, tourist courts, boarding and rooming houses and trailer parks and campsites
House cleaning services
Impounding lots
Information bureaus
Instructors, tutors, schools and studios of music, ceramics, arts, sewing, sports and the like
Interior decorating
Janitorial services
Landscape services and yard maintenance services
Laundry cleaning and garment services including laundries, dry cleaners, linen supply, diaper service, coin-operated laundries, and carpet and upholstery cleaning
Mailing, messenger and correspondent services
Marinas and boat landings
Massage parlors

**No license shall be issued to any bondsman unless and until the applicant shall have first obtained a bail bondsman license from the Virginia Department of Criminal Justice Services. If a professional bondsman has a license granted by any other county or city, he shall be authorized to enter into bonds within the County of York.

Movie theaters and drive-in theaters
Nickel plating, chromizing and electroplating
Nurses and physician registries
Nursing and personal care facilities including nursing homes, convalescent homes, homes for the retarded, old age homes and rest homes.
Packing, crating, shipping, hauling or moving goods or chattels for others
Parcel delivery service
Parking lots, public garages and valet parking
Pawnbrokers
Personnel services, labor agents and employment bureaus
Photographers and photographic services
Piano tuning
Picture framing and gilding
Porter services
Press clipping services
Public hospitals
Promotional agents or agencies
Public relations services
Realty multiple listing services
Renting or leasing any items of tangible personal property
Reproduction services
Secretarial services
Seamstress services
Septic tank cleaning
Shoe repair, shoe shine and hat repair shops
Sign painting
Solid waste collection services
Storage, all types
Swimming pool maintenance and management
Tabulation services
Tailor services
Taxidermist
Telephone answering services
Theaters
Theatrical performers, bands and orchestras
Towing services
Transportation services including buses and taxis
Travel bureaus
Tree surgeons, trimmers and removal services
Turkish, Roman or other like baths or parlors
Wake-up services
Washing, cleaning or polishing automobiles

(5) Any person buying or selling any kinds of goods, wares or merchandise for another on commission is a commission merchant and is engaged in a business service.

(6) Photographers who have no place of business in Virginia may be subject to local license taxation as imposed by section 14-28 of this chapter.

(7) Sign painting is a service unless the sign is painted on the side of a building or any other structure assessed as realty in which case the sign painting is contracting.

(8) An amusement is a type of entertainment or show for which compensation is received and that is not specifically provided for under another section.

(9) As used in this subsection, the term "renting or leasing any items of tangible personal property" shall not include persons engaged in the short-term rental business, as defined in section 21-120 .

(Ord. No. 01-25, 12/18/01; Ord. No. 05-23, 9/20/05)

Sec. 14-28. Special provisions for certain businesses.

(a) *Alcoholic beverages*. In addition to other taxes imposed by this chapter, every person required to obtain a license pursuant to § 4.1-231 of the State Alcoholic Beverage Act shall pay a license tax at the maximum rates permitted by and set out in § 4.1-233, Code of Virginia, provided, however, that retroactive to January 1, 1998, the annual license tax for a brewery license shall be $100.00.

(Ord. No. 098-17, 10/7/98)

No such license shall be issued to any person unless such person shall hold or shall secure simultaneously therewith the proper state license required by the Alcoholic Beverage Control Act, which state license shall be exhibited to the commissioner of the revenue.

(Ord. No. O97-32, 11/19/97)

(b) *Mixed beverages*. In addition to any other tax imposed by this chapter, every person engaging in the dispensing of mixed alcoholic beverages, pursuant to a State Mixed Beverage Restaurant License, shall pay a license tax at the maximum rates permitted by and set out in §4.1-233, Code of Virginia.

(Ord. No. O97-32, 11/19/97)

(c) In addition to any levy based on gross receipts otherwise imposed by this chapter, there shall be imposed on amusement operators, as hereinafter defined, a license fee of one hundred dollars ($100.00) for operators of fewer than ten (10) machines and a license fee of two hundred dollars ($200.00) on operators of ten (10) or more machines. The term amusement operator means any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine in the county; however, the term amusement operator shall not include a person owning fewer than three (3) such machines and operating such machines on property owned or leased by such person; nor shall it apply to operators of weighing machines, automatic baggage or parcel checking machines or receptacles; nor to operators of vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only; nor to operators of viewing machines; nor to operators of devices or machines affording rides to children; nor to operators of machines providing for the delivery of newspapers.

(d) Notwithstanding any other provision of this chapter:

(1) The license tax on any permanent coliseum, arena, or auditorium having a maximum seating capacity in excess of ten thousand (10,000) persons and open to the general public shall not exceed one thousand dollars ($1,000.00). Such license shall be in lieu of any or all licenses required from any exhibition, performance, or event occurring within such facility.

(2) The license tax on any savings and loan association or credit union shall be fifty dollars ($50.00) and shall be levied only when the main office of such association is located in the county.

(3) The license tax imposed on any peddler or itinerant merchant shall be based on gross receipts but shall not exceed five hundred dollars ($500.00).

(4) The license tax levied on any photographer having no place of business in Virginia shall be thirty dollars ($30.00).

(5) The license tax levied on any person who, for compensation, shall pretend to tell fortunes, assume to act as a clairvoyant, or practice palmistry or phrenology, shall not be based on gross receipts but shall be a flat tax of five hundred dollars ($500.00).

(6) Any traveling circus, carnival or show giving performances in open air or in a tent or tents, shall pay a license tax of one thousand dollars ($1,000.00) for each week or part thereof that such business operates within the county and such license shall not be based on gross receipts. The term "carnival" means an aggregation of shows, amusements, concessions and riding devices or any of them operated together on one (1) lot or street or on contiguous lots or streets, moving from place to place, whether the same are owned and actually operated by separate persons or not. The term includes but is not limited to sideshows, dog and pony shows, trained animal shows and menageries.

(e) No license tax imposed on peddlers or itinerant merchants shall apply to:

(1) A licensed wholesale dealer who sells and, at the time of such sale, delivers merchandise to retail merchants;

(2) A distributor or vendor of motor fuels and petroleum products;

(3) A distributor or vendor of seafood who catches seafood and sells only the seafood caught by him;

(4) A farmer or producer of agricultural products who sells only the farm or agricultural products produced or grown by him;

(5) A farmer's cooperative association;

(6) A manufacturer subject to Virginia tax on intangible personal property who peddles at wholesale only the goods, wares or merchandise manufactured by him at a plant, and whose intangible personal property is taxed by the Commonwealth of Virginia.

ARTICLE III. SPECIAL LICENSES.

Sec. 14-29. Going out of business sales.

(a) *License to conduct required*. It shall be unlawful for any person to advertise, or conduct, a special sale for the purpose of discontinuing a retail business, or to modify the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated, unless such person obtains a license to conduct such sale, as prescribed by this section. Any person who advertises such sale shall conspicuously include in the advertisement the license number assigned for the sale and the effective dates of the sale as authorized in such license.

(b) *Time requirement for applications*. Applications for special sale licenses required by subsection (a) above shall be filed with the commissioner of the revenue at least fourteen (14) days prior to the date of such sale.

(c) *Oath, form and required information*. Applications for special sale licenses shall be under oath, shall be on a form approved and provided by the commissioner of the revenue, and shall contain the following:

(1) The trade name of the business concerned.

(2) The names of all owners of the business concerned.

(3) The address of the usual place of business.

(4) A statement that the requested sale will be in connection with a complete and permanent liquidation of the business or a specific portion thereof.

(5) The date by which the business, or the specified portion thereof, is expected to cease retail operations in the county.

(6) The name of the person conducting the sale, if different from the owners.

(7) The legal address of the place where such sale is to be conducted.

(8) An inventory, including kind and quantity, of all goods which are to be offered for sale during such special sale.

(9) A copy of any advertisements to be used for the sale.

(d) *Fee*. A fee of sixty-five dollars ($65.00) shall accompany such application. Such fee shall be deposited in the general fund of the county.

(e) *Issuance*. The commissioner of the revenue shall issue such special sale license if the application for such license is in conformity with the provisions of this section.

(f) *Length of license: additional licenses*. Each special sale license shall be valid for a period of no longer than sixty (60) days, and any extension of that time shall constitute a new special sale and shall require an additional license and inventory. A maximum of one (1) additional license beyond the initial sixty-day license shall be granted solely for the purpose of liquidating only those goods contained in the initial inventory list and which remain unsold.

(g) *Authority to inspect*. The commissioner of the revenue shall cause inspections to be made of such special sale to ensure that such sale shall be conducted in conformity with the provisions of this section.

(h) *Commingling other goods with special sale goods prohibited*. It shall be unlawful for any person to advertise at a reduced price or to sell any goods at a reduced price during a special sale, as defined in subsection (a) above, other than those goods listed in the inventory required by subsection (c) above. Goods not included on the inventory of special sale goods shall not be commingled with or added to the special sale goods. The special sale license may be revoked upon receipt of evidence that goods not appearing on the original inventory of special sale goods have been commingled with or added to the special sale goods.

(i) *Penalty for violation*. Any person, who is convicted of violating any provision of this Article shall be guilty of a Class 1 misdemeanor.

Sec. 14-30 Pawnbrokers and Dealers in Secondhand Goods.

(a) *License required*. No person shall engage in the business of a pawnbroker or a dealer in secondhand goods in the County without having a valid pawnbroker or dealer license issued by the commissioner of the revenue; however, the provisions of this section shall not apply to any pawnbroker licensed in the Commonwealth of Virginia prior to July 1, 1998.

(b) *Definitions:*

(1) *Pawnbroker*. For purposes of this section, "pawnbroker" means any person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. A pawnbroker who also engages in the sale and purchase of secondhand goods shall nonetheless be deemed a "pawnbroker" for purposes of this section, and shall not be required to be licensed as a dealer in secondhand goods. Such person shall, however, comply with all requirements set forth herein for the purchase and sale of secondhand goods.

(2) *Dealer in secondhand goods*. For purposes of this section, a "dealer in secondhand goods" (also referred to herein as a "dealer") is any person engaged in the business of buying or selling secondhand or used articles, without limitation, including junk dealers, antique dealers, dealers in secondhand clothing, furniture, appliances and similar articles and itinerant buyers or sellers, except that a person participating in licensed antique shows, arts and crafts shows and collectors shows shall not be considered dealers. "Dealer" shall also include all employers and principals on whose behalf a purchase is made and any employee or agent who makes any purchase on behalf of his employer or principal.

(c) *Applications for pawnbroker and dealer license*. Applications for pawnbroker and dealer licenses shall be under oath, shall be on a form approved and provided by the commissioner of the revenue, and shall include the following:

(1) The name, any aliases, address, date of birth, fingerprints and a photograph of the applicant.

(2) The address of the building where the applicant proposes to carry on the pawnbroker or dealer business.

(3) A copy of a certificate of zoning compliance evidencing that the building where the applicant proposes to carry on the pawnbroker or dealer business is properly zoned for such use.

(4) A sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth, involving the applicant.

(5) As to pawnbrokers, authorization from a circuit court pursuant to the provisions of section 54.1-4001, Code of Virginia, for the commissioner of the revenue to issue a pawnbroker license to the applicant.

(6) A statement as to whether or not the applicant will purchase, sell or take possession of firearms.

(7) A statement as to whether or not the applicant will deal in precious metals and gems.

(8) Any other information which the commissioner of the revenue reasonably determines may be necessary to determine compliance with federal, state or local laws.

(d) *Review of pawnbroker applications*. The commissioner of the revenue shall furnish to the circuit court or the sheriff any portion of the application necessary for them to determine whether the applicant for a pawnbroker license has complied with the requirements of §§ 54.1-4001, *et seq*., Code of Virginia.

(e) *Duration; renewal fee; transfer*. Pawnbroker and dealer licenses shall be valid for a period of two (2)

years from the date of issuance thereof, and may be renewed in the same manner as the initial license was issued. The fee for licenses and renewals shall be one hundred dollars ($100.00). No license shall be transferable.

(f) *Location*. No person shall engage in the business of a pawnbroker or dealer in any location other than the one designated in his license, except in the case of a pawnbroker with the consent of the court which authorized the license.

(g) No person shall be licensed as a pawnbroker or dealer or engage in the business of a pawnbroker or dealer without having in existence a bond meeting the requirements of § 54.1-4003, Code of Virginia, applied to dealers *mutatis mutandis*.

(h) *Records to be kept; credentials of person pawning, selling, or purchasing goods; fee; penalty.* Every pawnbroker and dealer shall keep at his place of business an accurate and legible record of each loan or transaction in the course of his business, including transactions in which secondhand goods, wares or merchandise are purchased for resale or are resold. The account shall be recorded at the time of the loan or transaction and shall include:

(1) A description, serial number, and a statement of ownership of the goods, article or thing pawned or pledged or received on account of money loaned thereon, or purchased for resale;

(2) The time, date and place of the transaction;

(3) The amount of money loaned thereon at the time of pledging the same or paid as the purchase price;

(4) The rate of interest to be paid on any loan;

(5) Any fees charged by a pawnbroker, itemizing each fee charged;

(6) The full name, residence address, telephone number, and driver's license number or other form of identification of the person pawning or pledging, selling or purchasing the goods, article or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks, of such person, such description to conform to any regulations promulgated by the Superintendent of State Police pursuant to § 54.1-4009, Code of Virginia, relative to records kept by pawnbrokers;

(7) Verification of the identification by the exhibition of a government-issued identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

(8) As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and

(9) All other facts and circumstances respecting such loan, purchase, or sale.

(i) *Electronic records retention.* A pawnbroker or dealer may maintain at his place of business an electronic record of each transaction involving goods, article or things pawned or pledged, purchased or sold. If maintained electronically, a pawnbroker or dealer shall retain the electronic records for at least one year after the date of the transaction and make such electronic records available to any duly authorized law-enforcement officer upon request.

(j) *Service fees for pawned goods.* For each loan or transaction, a pawnbroker may charge a service fee for making the daily electronic reports to the appropriate law-enforcement officers required by subsection (k) hereunder, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or $3, whichever is less.

(k) *Daily reports.* Every pawnbroker and dealer shall prepare a daily report of all goods, articles or things pawned or pledged with him or sold to him or sold by him that day and shall file such report by

noon of the following day with the sheriff. The report shall include the pledgor's, seller's or buyer's name, residence, and driver's license number or other form of identification, and a description of the goods, articles or other things pledged, purchased or sold and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker or dealer may compile and maintain the daily report in an electronic format and, if so maintained, shall file the required daily reports electronically with the appropriate law-enforcement officer through use of a disk, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer. Such report shall conform to any regulations adopted by the Superintendent of State Police pursuant to § 54.1-4010, Code of Virginia, for the uniform reporting of information by pawnbrokers.

(l) *Property pawned or purchased not to be disfigured or changed*. No property received on deposit or pledged or purchased by any pawnbroker or dealer shall be disfigured or its identity destroyed or affected in any manner (i) so long as it continues in pawn or in possession of the pawnbroker or dealer, or (ii) in an effort to obtain a serial number or other information for identification purposes.

(m) *Right of entry of any law enforcement officer*. Every pawnbroker and dealer shall admit to his premises, during regular business hours, the sheriff or any law enforcement officer and shall permit such officer to examine all records required by this section and to examine and take into possession any article listed in a record which is believed by the officer to be missing or stolen.

(n) *Prohibited purchases*.

(1) No pawnbroker or dealer shall take in pawn, buy or acquire any secondhand article from any seller who is under the age of eighteen (18) years.

(2) No pawnbroker or dealer shall take in pawn, buy or acquire any secondhand article from any seller who the pawnbroker or dealer believes or has reason to believe is not the owner of such item, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.

(o) *Retention of purchases.*

(1) No pawnbroker shall sell any pawn or pledge until (i) it has been in his possession for a period of not less than thirty (30) days or such longer period as may be agreed to in writing by the pawner, and (ii) a statement of ownership is obtained from the pawner.

(2) Every dealer shall retain all secondhand articles acquired by him for a minimum of ten (10) calendar days from the date on which a copy of the record required by subsection (k) above is received by the sheriff. Until the expiration of this period, the dealer shall not sell, alter or dispose of any acquired item, in whole or in part, or remove it from the county.

(p) *Compliance with state law.* Any person who engages in the business of a pawnbroker in the county shall comply with the provisions of §§ 54.1-4001 *et seq*., Code of Virginia.

(q) *Penalties for violations.* Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day's violation shall constitute a separate offense.

(Ord. No. O99-9, 5/5/99; Ord. No. 04-13(R), 6/15/04)

CODE OF THE COUNTY OF YORK

Chapter 14.3

MASSAGE PARLORS*

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*__Cross reference__—Licenses generally, Ch. 14; classification of business, § 14-27.

Sec. 14.3-1. Definitions.

For the purposes of this chapter, the following words and terms shall have the meanings respectively ascribed to them by this section:

Applicant. Any person applying for a permit under this chapter and must include all partners, including limited partners, of a partnership applicant, all officers and directors of a corporate applicant and any stockholder holding more than five percent (5%) of the stock or a corporate applicant.

Approved school. Any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Incorporated.

Certified massage therapist. Any person who has been certified as a massage therapist pursuant to the provisions of §54.1-3029, Code of Virginia.
(Ord. No. O97-31, 11/19/97)

Director. The health director of the York-Poquoson Health Department, or his designee.

Employee. Any person, other than a massage technician, who renders any service in connection with the operation of a massage parlor and receives compensation from the operator of the business or patrons.

Massage. A method of treating the external parts of the body for remedial or hygienic purposes, consisting or rubbing, stroking, kneading or tapping with the hand or any instrument.

Massage parlor. Any place conducting a business where any person engages in, conducts or carries on, or permits to be engaged in, conducted or carried on, any business of giving Turkish, Swedish, vapor, sweat, electric, salt, magnetic or any other kind or character of massage, baths, alcohol rub, formentation, manipulation of the body or other similar procedure.

Massage technician. Any person, male or female, including, but not limited to, a massage parlor operator, who administers to another person, for any form of consideration, a massage, alcohol rub, bath, manipulation of the body or any similar procedure.

Patron. Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

Person. Any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

Permittee. The operator of a massage establishment that has a valid permit issued under this chapter.

Sexual or genital area. The genitals, pubic area, anus or perineum of any person, or the vulva or breast of a female.

Sec. 14.3-2. Permit—Required.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the county, the business of a massage parlor, or to conduct or carry on, or permit to be carried on, the business of rendering massage parlor services

at a location removed from a massage parlor within the county without a permit pursuant to the provisions of this chapter, or a permit having been issued, while such permit shall have been suspended or revoked.

Sec. 14.3-3. Same—Exemptions.

Except as otherwise provided in this section, the requirements of this chapter shall not apply to:

(a) a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth; or

(b) a licensed nurse acting under the direct prescription and direction of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth; or

(c) persons in barber shops or beauty parlors, licensed as such by the County, so long as massage is given only to the scalp, the face, the neck or the shoulders, provided that the provisions of § 14.3-16 shall apply to such persons; or

(d) a certified massage therapist who has obtained a business license in the County pursuant to § 14-27(d) of this code, provided that the provisions of § 14.3-16 shall apply to such therapist.

Any person claiming exemption from the provisions of this chapter pursuant to this section shall, upon the request of any law enforcement officer, the director, or the County Administrator, produce documentary evidence to establish such claim.

Sec. 14.3-4. Same—Application.

(a) Any person desiring a permit to operate a massage parlor or establishment shall make application to the director who shall refer all such applications to the county administrator for investigation. An application to obtain or renew a permit to operate a massage establishment shall be accompanied by a receipt showing payment to the county treasurer of the permit fee required under section 14.3-8 of this chapter.

(b) The application to obtain or renew a permit to operate a massage parlor shall set forth the exact nature of the massage to be administered and at the proposed place of business and facilities therefor. The application shall include a list of the massage technicians presently employed or to be employed indicating name, age, height, weight, sex, qualifications and experience, and a medical history of any contagious or communicable diseases presently had and being treated or cured within the previous three (3) years.

(c) In addition to the foregoing, any applicant for a permit shall furnish the following information;

(1) Name and address.

(2) Written proof of age.

(3) All residential addresses for the past three (3) years.

(4) Height, weight, color of eyes and hair, and sex.

(5) A complete set of fingerprints and a portrait photograph of the applicant, giving a clear view of the applicant's face.

(6) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of application.

(7) Previous experience of the applicant as a massage parlor operator or a massage technician.

(8) All criminal convictions, other than traffic offenses, and places of conviction of the applicant and all massage technicians to be employed.

(9) A complete medical history of the person who shall be directly responsible for the operation and management of the massage parlor including a list of all contagious or communicable diseases had by the manager within the past three (3) years and the name of person, with address, giving treatment.

(10) If the applicant is a corporation or a partner in a partnership is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation.

(11) Written proof of graduation from an approved school by the person who shall be directly responsible for the operation and management of the massage parlor and for each massage technician employed therein.

(12) Authorization for the county, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application.

(13) A currently dated written declaration duly signed by the applicant before a notary public under penalty of perjury that the foregoing information contained in the application is true and correct.

(14) In the case of a renewal application, reference may be made to the original application for information which has remained unchanged.

Sec. 14.3-5. Same—Referral of application to certain administrative officers.

The director shall refer such application to the county administrator within five (5) days of its receipt. The county administrator shall forward copies of such application to the administrative department of the county charged with the enforcement of the building, plumbing, electric and fire prevention codes. A copy of such application shall also be referred to the sheriff's department by the county administrator. In addition, the director shall retain a copy of said application, inspect the premises and report to the county administrator as hereinafter provided. Each department shall, within then (10) days, inspect the premises proposed to be operated as a massage parlor and make written recommendations to the county administrator concerning compliance with the codes that they administer.

Sec. 14.3-6. Same—Issuance.

Within sixty (60) calendar days of the application, the director shall issue, or reissue in case the permit has expired or been revoked, the permit if he shall find:

(a) The premises to be used or constructed meets the building and fire prevention codes of the county as reported by the administrative officer of the county.

(b) All persons who shall perform as massage technicians within the past thirty (30) days have undergone a physical examination by a physician duly licensed by and practicing in the Commonwealth of Virginia and have furnished to the director a certificate signed by such examining physician stating that the person examined is either free from any contagious or communicable diseases or incapable of communicating any of such disease to others.

(c) The operation, as proposed by the applicant, if permitted, would comply with all of the requirements of this chapter and all other applicable laws.

(d) The applicant and the manager or other person principally in charge of the operation of the business has not been convicted of any crime involving dishonesty, fraud or deceit, unless such conviction occurred at least five (5) years prior to the date of application.

(e) The manager or other person principally in charge of the operation of the business and each massage technician holds a certificate issued by an approved school evidencing that such certificate holder meets all qualifications and requisites established by the American Massage and Therapy Association, Inc. for a massage technician or for a massage parlor operator as the case may be. In addition, such certificate holder meets all qualifications and requisites established by the American Massage and Therapy Association, Incorporated, for a massage technician or for a massage parlor operator as the case may be. In addition, such certificate holder shall provide documented evidence acceptable to the director showing the completion of at least five hundred (500) hours of experience performing substantially the same duties as those called for in the position for which the permit is sought. Experience gained in obtaining the required certificate may be counted.

(f) The applicant has not made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the county in conjunction therewith.

Every massage parlor permit issued pursuant to this chapter will terminate as of January 31 next following the date of its issuance unless sooner suspended or revoked.

Sec. 14.3-7. Display of permit and list of employed technicians.

Every person to whom a permit shall have been granted shall display such permit in a conspicuous place so that the same may be readily seen by anyone entering the premises where the massage is given. Such permittee shall also display in a conspicuous place a list showing the names of all massage technicians employed and the names of all operators or managers whether or not they be massage technicians. If the massage parlor has a reception area or the equivalent, the display required by this section shall be in such reception area or equivalent space.

Sec. 14.3-8. Permit fees for massage parlor and massage technicians.

The permit fees here provided are the costs of investigations by the county administrator, the health department and other departments, and regulation by the county administrator and director. In addition, permittees must obtain a county business license issued pursuant to chapter 14 of this Code.

(a) An initial permit application fee of five hundred dollars ($500.00) shall be paid to the county treasurer by each applicant for a massage parlor permit. The permit, when issued, shall remain in force until January 31 of the next following year. The permittee must renew such permit by February 1, of each ensuing year by filing the required renewal application and paying a renewal permit fee of one hundred dollars ($100.00) to the county treasurer not later than the first day of December of each year immediately preceding the expiration of the permit.

(b) An initial permit application fee of fifty dollars ($50.00) shall be paid to the county treasurer by each applicant for a massage technician permit. The permit, when issued, shall remain in force until January 31 of the next following year. The permittee must renew such permit by February 1 of each ensuing year by filing the required renewal application and paying a renewal fee of ten dollars ($10.00) to the county treasurer not later than the first day of December of each year immediately preceding the expiration of the permit.

(c) No permit fee shall be pro-rated nor shall any permit be transferable to another person.

Sec. 14.3-9. Required facilities; maintenance.

Each massage parlor shall have, and maintain in a clean, sanitary and workable condition:

(a) Adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(b) Washbasins provided with both hot and cold running water installed in either the toilet room or a vestibule immediately adjacent thereto. Washbasins shall be provided with soap and dispenser with sanitary towels.

(c) Closed cabinets used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets which containers or cabinets shall be kept separate from the clean storage areas.

(d) Adequate bathing, dressing, locker and toilet facilities provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker capable of being locked for each patron, one (1) toilet and one (1) washbasin shall be provided by each massage parlor. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for half of the water closets for male patrons after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(e) If male and female patrons are to be served simultaneously at the establishment, separate bathing, massage and dressing rooms provided for each sex.

(f) A service sink for custodial services provided either in the massage parlor quarters or on the floor of the building on which the quarters are located.

(g) Massage tables, bathtubs, shower stalls and steam or bath areas with nonporous surfaces which may be readily disinfected.

Sec. 14.3-10. Hours of operation.

No massage parlor shall remain open for business nor shall any massage be administered to any patron of any such business between the hours of 10:00 p.m. and 6:00 a.m. the following morning.

Sec. 14.3-11. Operating requirements.

(a) Every portion of the massage parlor, including appliances and apparatus, shall be clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees and massage technicians shall be clean and wear clean, nontransparent outer garments.

(d) Clean and sanitary towels and linens shall be provided for each patron of the massage parlor. No common use of towels or linens shall be permitted.

(e) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpet is used on the floors, it shall be kept dry.

(f) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(g) Eating in the massage work areas shall not be permitted. Animals, except for seeing eye dogs, shall not be permitted in the massage work areas.

(h) Each massage technician shall wash his hands in hot running water using proper soap or disinfectant before administering a massage to each patron.

(I) Smoking shall not be permitted within the massage work areas.

Sec. 14.3-12. Health requirements for operators and technicians; serving patrons with skin infections.

(a) No massage parlor operator or massage technician shall give massage or come in contact with a patron of any massage parlor unless such operator or massage technician shall be free of any contagious or communicable disease. The director or his designee may, for cause, require that an operator or massage technician not be allowed to give massage unless and until any such person provides him with a certificate from a medical doctor duly licensed and practicing in the Commonwealth of Virginia that such person has been examined within the previous ten (10) days and found to be free of all contagious or communicable disease.

(b) No massage technician shall knowingly serve any patron infected with any fungus or other skin infection; nor shall service be performed on any patron exhibiting skin inflammation or eruptions;

provided, however, that a duly licensed physician may certify that any such patron may be safely served prescribing the conditions thereof.

(c) All massage technicians shall undergo a physical examination for contagious and communicable diseases and shall furnish to the director a certificate based upon said examination, issued with thirty (30) day thereof, and signed by a physician duly licensed by the Commonwealth of Virginia stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such disease to others prior to the commencement of employment and at least once every year thereafter.

Sec. 14.3-13. Right of inspection.

The sheriff's department and the York-Poquoson Department of Health shall, from time to time, at least twice a year, make an inspection of each massage parlor granted a permit under the provisions of this chapter for the purposes of determining whether the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner and shall be a condition of the permit granted. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

Sec. 14.3-14. Records of treatment; giving false name when seeking massage prohibited.

(a) Every person operating a massage parlor under a permit as provided in this chapter shall keep a record of the date and hour of each treatment, the name and address of each patron, and the name of the technician administering such treatment. Such record shall be open to inspection by the director, or his designee, and other law enforcement officers of the county.

(b) It shall be unlawful for any person, while seeking massage, to give a false or fictitious name to a massage parlor operator or employee. Any person giving a false or fictitious name to a massage parlor operator or employee while seeking massage shall be guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-10 of this Code.

Sec. 14.3-15. Alcoholic beverages.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed or kept, any alcoholic beverage on the premises of any massage business.

Sec. 14.3-16. Massage of certain portions of the body prohibited; exposure of certain portions of body prohibited.

(a) It shall be unlawful for any massage technician or any other person in a massage parlor to place his hand or hands upon, to touch with any portion of his body, to fondle in any manner, or massage the sexual or genital areas, or any portion thereof, of any other person.

(b) It shall be unlawful for any massage technician or any other person employed in a massage parlor to expose his sexual or genital areas, or any portions thereof, to any other person.

(c) It shall be unlawful for any massage technician or any other person employed in a massage parlor to fail to conceal with a fully opaque covering any sexual or genital areas of his body while in the presence of any patron of said massage parlor.

(d) It shall be unlawful for any female massage technician or any other female person employed in a massage parlor to fail to conceal with a fully opaque covering the nude breast or breasts of said female massage technician or other female person while in the presence of any patron of such massage parlor.

(e) It shall be unlawful for any person owning, operating or managing a massage parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee or other person under his control or supervision to perform such acts prohibited in subsections (a), (b), (c) or (d) of this section.

Sec. 14.3-17. Where massage permitted.

Each massage parlor shall have one area designated for massage; or, in the event massage is administered to both sexes during the same time, such massage parlor shall have two (2) separate massage areas, one being for male patrons and one being for female patrons. All massages shall be administered in said massage area or areas as the case may be, and no massages shall be administered in private rooms or behind closed doors. The massage area or areas, as the case may be, shall be open to inspection by the director or his designee, and other law enforcement officer of the county during business hours.

Sec. 14.3-18. Responsibilities of permittee.

No person granted a massage parlor permit pursuant to this chapter shall operate under any name or at any location not specified in his permit. The permittee shall be responsible for maintaining the premises in accordance with the requirements of this chapter and for the conduct of all agents and employees in complying with the requirements of this chapter. No permittee shall permit in his premises activity or behavior prohibited by the laws of the United States, Commonwealth of Virginia, or this county relating to gambling, prostitution, sodomy, adultery, fornication, lewd and lascivious cohabitation or other laws relating to obscenity or moral turpitude.

Sec. 14.3-19. Revocation and suspension of permits—Generally.

The director may revoke or suspend for a term, as hereinafter provided, any permit issued pursuant to this chapter upon the violation of any of the rules, requirements or restrictions of this chapter. No permit, however, shall be revoked until after a hearing shall have been held by the director to determine just cause for such revocation. At such hearing the permittee shall be given the opportunity to present evidence and argument against revocation or suspension. Notice of such hearing shall be given the permittee by mailing at least five (5) days prior to such hearing a written statement setting forth the ground of complaint, addressed to the permittee at the address on this permit. The decision of the director shall be final. After such hearing the director may suspend such permit for a term not to exceed sixty (60) days, may revoke the permit or may dismiss the complaint.

Sec. 14.3-20. Permit nontransferable; grounds for revocation of permit.

The sale of transfer of the interest of the permittee in a massage parlor shall render null and void any permit issued pursuant to this chapter. The enlargement or alteration of the structure at which the massage parlor is operated shall be deemed to revoke such permit, ipso facto, unless the information required by section 14.3-4 shall have been first filed with the director.

Sec. 14.3-21. Penalty.

Any person who shall violate any of the provisions of this chapter shall, in addition to the provisions of section 14.3-19 and unless otherwise indicated, be guilty of a Class 1 misdemeanor and, upon conviction thereof, shall be punished, in accordance with section 1-10 of this Code.

Sec. 14.3-22. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof.

CODE OF THE COUNTY OF YORK

Chapter 15

MOTOR VEHICLES AND TRAFFIC*

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ARTICLE I. IN GENERAL

Sec. 15-1. Applicability of chapter to vehicles regardless of ownership.

The provision of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles, regardless of ownership, subject to such specific exceptions as are set forth in this chapter.

Sec. 15-2. Compliance with chapter; general penalty for violations.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this chapter. Unless otherwise specifically provided, a violation of this chapter shall constitute a traffic infraction punishable by a fine of not more than two hundred dollars ($200.00).
(Ord. No. O97-2, 2/19/97)

Sec. 15-3. Arrest for violation of chapter—Generally.

(a) Whenever any person is detained by or in the custody of an arresting officer, including an arrest upon a warrant, for a violation of any provision of this chapter punishable as a misdemeanor, except for section 15-7, the arresting officer shall, except as otherwise provided in section 15-4, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify such person in writing to appear, at a time and place to be specified in such summons or notice. Such time shall be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing, and such person shall, if he so desires, have a right to an immediate hearing, or a hearing within twenty-four (24) hours, at a convenient hour, before a court having jurisdiction. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place forthwith release such person from custody.

(b) Any person who willfully violates his written promise to appear, given in accordance with this section, shall be guilty of a misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested, and the court may order a warrant for the arrest of such person.

(c) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a law enforcement officer for other misconduct in office.

(Ord. No. O97-2, 2/19/97)

Sec. 15-4. Same—When arrested person to be taken before judicial officer.

If any person arrested for a violation of this chapter is (i) believed by the arresting officer to have committed a felony; or ii) is believed by the arresting officer to be likely to disregard a summons issued under section 15-3; or (iii) refuses to give a written promise to appear under section 15-3, the arresting officer shall take such person forthwith before a magistrate or other issuing authority having jurisdiction to determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant, as is determined proper.
(Ord. No. O97-2, 2/19/97)

Sec. 15-5. Same—Traffic infractions treated as misdemeanors for arrest purposes.

For the purposes of arrest, traffic infractions shall be treated as misdemeanors. Except as otherwise provided by this chapter or state law, the authority and duties of arresting officers shall be the same for traffic infractions as for misdemeanors.

Sec. 15-6. Adoption of state law—Generally.

(a) Pursuant to the authority of section 46.2-1313, Code of Virginia as amended, all of the provisions and requirements of the laws of the state contained in title 46.2, Code of Virginia, as amended, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the county. For law enforcement purposes only, "highway" shall include all private roads, streets or other access ways located within any residential development containing one hundred (100) or more lots. Such provisions and requirements are hereby adopted and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2, Code of Virginia, as amended, which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2, Code of Virginia, as amended.

(b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such words and phrases, when used in this chapter, unless clearly indicated to the contrary. All references in this section to the "Code of Virginia" shall be deemed to include future amendments to the referenced law, as authorized by Code of Virginia section 1-220.

(Ord. No. O97-24, 9/17/97; Ord. No. 03-1, 1/21/03; Ord. No. 09-21, 10/20/09)

Sec. 15-7. Driving while under influence of alcohol or drugs; adoption of state law.

Article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section. All references in this section to the "Code of Virginia" shall be deemed to include future amendments to the referenced law, as authorized by Code of Virginia section 1-220.

(Ord. No. 03-1, 1/21/03; Ord. No. 09-21, 10/20/09)

Sec. 15-8. Prohibition of through truck traffic on certain designated streets.

(a) For the purposes of this section, the term "truck" shall be deemed to include trucks and tractor trucks, as defined in section 46.2-100, Code of Virginia.

(b) Pursuant to the authority set forth in section 46.2-1304, Code of Virginia, the use of trucks except for the purposes of receiving loads or making deliveries, shall be prohibited on all streets in the following named subdivisions, as such streets are shown on subdivision plats approved by the county and recorded in the office of the clerk of the county circuit court:

(1) Banbury Cross.

(2) Brandywine.

(3) Carver Gardens.
(4) Charleston Heights.
(5) Coopers Landing.
(6) Country Club Acres.
(7) Cove Homes.
(8) Davis Forge.
(9) Edgehill.
(10) Greensprings.
(11) Harris Grove.
(12) Harwood Heights.
(13) Harwood Mill.
(14) Lees Village.
(15) Meadowlake Farms.
(16) Mill Crossing.
(17) Millside.
(18) Nelson Circle.
(19) Nelson Park.
(20) Parkway Estates.
(21) Patriot Village.
(22) Running Man.
(23) Scotch Toms Woods.
(24) Skimino Hills.
(25) Tabb Lakes.
(26) Williamsburg Bluffs.
(27) Woodlake Crossing.
(28) York Terrace

Secs. 15-9—15-20. Reserved.

ARTICLE II. LOCAL VEHICLE REGISTRATION*

Sec. 15-21. Penalty for violation of article.

Unless otherwise specifically provided, any person convicted of violating any of the provisions of this article shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each offense and each additional day's violation shall constitute a separate offense.

Sec. 15-22. Registration fee levied exceptions.

(a) There is hereby imposed and levied the following annual registration fee pursuant to the provisions of section 46.2-752(A) Code of Virginia, and hereafter referred to as registration fee, upon each and every motor vehicle, trailer and semitrailer normally garaged, stored or parked in the county:

(1) A fee of twenty-three dollars ($23.00) is imposed on the following:

*Cross reference—Licenses generally, Ch. 14.

a. Each private passenger car or motor home provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

b. A private motor vehicle other than a motorcycle with a normal seating capacity of more than ten (10) adults including the driver if the private motor vehicle is not used for rent or for hire or is not operated under a lease without a chauffeur.

c. A private school bus.

d. Each trailer or semitrailer designed for use as living quarters for human beings.

e. Each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate.

f. Each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without chauffeur for the transportation of passengers. This subsection does not apply to vehicles used as common carriers.

g. A taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the State Corporation Commission as required by law. This subsection does not apply to vehicles used as common carriers.

h. A bus used exclusively for transportation to and from Sunday school or church, for the purpose of divine worship.

i. Other passenger-carrying vehicles.

j. All motor vehicles not designed and used for the transportation of passengers, and pickup and panel trucks.

(2) A fee of fifteen dollars ($15.00) is imposed on the following:

a. A motorcycle, with or without a side car.

b. A trailer or semitrailer constituting a part of a combination with a truck or tractor truck (each vehicle of which combination shall be assessed as a separate vehicle).

c. Any motor vehicle, trailer, semitrailer, or specialized mobile equipment, on which well drilling machinery is attached, as defined in section 46.2-700, Code of Virginia.

(3) A fee of six dollars and fifty cents ($6.50) is imposed on the following:

A cradle, flatbed, or open pickup type trailer which has one (1) or two (2) wheels and a body width not greater than the width that of the motor vehicle to which it is attached at any time of operation, is pulled by a passenger car, or a pickup or panel truck having an actual gross vehicle weight not exceeding five thousand (5,000) pounds, and is used for carrying property weighing no more than one thousand five hundred (1,500) pounds at any one time, and for all trailers designed exclusively to transport boats. Nothing in this subsection shall apply to the fees for trailers or semitrailers designed for use as living quarters for human beings, or to those trailers or semitrailers operated under lease or rental agreement, or operated for compensation.

(4) A fee of five dollars ($5.00) is imposed on the following:

Any antique motor vehicle licensed pursuant to the provisions of section 46.2-730, Code of Virginia.

The registered owner of any such motor vehicle, trailer or semitrailer shall be liable for the registration fee herein levied.

In no event shall the county's fee exceed that of the state for a similar motor vehicle, trailer or semitrailer.

The registration fees specified in this section shall be reduced by one-half (½) for passenger vehicles and pickup or panel trucks upon production of proof that any such vehicle is licensed by the division of motor vehicles in the name of a member of the Virginia National Guard, pursuant to section 46.2-744, Code of Virginia.

(b) Nothing contained in this section shall be construed as imposing a county registration fee upon any of the following, as to all of which vehicles the owners are hereby exempted from payment of the registration fees provided in this section:

(1) All motor vehicles, trailers and semitrailers exempted therefrom by general law of the state or owned by the county or any governmental agency and operated solely in governmental business;

(2) One (1) motor vehicle owned and used personally by any member of the (I) county volunteer fire and rescue squad; or (ii) a volunteer deputy sheriff in the Sheriff's Department.

(3) One (1) motor vehicle owned and used personally by any disabled veteran, as defined in section 46.2-739, Code of Virginia;

(4) One (1) passenger vehicle, pickup or panel truck, as defined in section 46.2-100, Code of Virginia, owned by any person who furnishes written evidence from one of the armed forces that such person was a prisoner of the enemy in any war and, if not currently a member of the armed forces, was honorably discharged;

(5) All motor vehicles, trailers and semitrailers exempted by section 46.2-755, Code of Virginia;

(6) All motor vehicles, trailers and semitrailers owned and registered solely in the name of members of the armed forces of the United States not domiciliary residents of Virginia, who are absent from the state or other jurisdiction of which they are domiciliary residents in compliance with orders of any of the uniformed services of the United States, but only if the license, fee or excise required by the state or jurisdiction of their domiciliary residence has been paid as to any such vehicle registered in Virginia.

(7) All motor vehicles, trailers and semitrailers owned by and registered in the name of persons who reside on a government reservation within the exclusive jurisdiction of the United States.

(c) In any case wherein this schedule of registration fees the registration is being purchased after September 15 of any year, and the owner was not required by this section to have paid a registration fee before such date of purchase, the fee shall be reduced by one-half (½).

(Ord. No. O99-12, 6/2/99—effective July 1, 1999; Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Cross reference—Taxation generally, Ch. 21.

Sec. 15-23. Payment of registration fee.

(a) The registered owner of each motor vehicle, trailer and semi-trailer normally garaged, stored or parked, or to be normally garaged, stored or parked in the county, shall, on or before the twenty-fifth day of June of each calendar year, pay to the treasurer the proper registration fee, as prescribed in this article, and such fees, together with any penalties imposed.

(b) The registered owner of any motor vehicle, trailer and semi-trailer other than those provided for in section 46.2-652, Code of Virginia, which has been duly registered for the current calendar year in another state or country and which has displayed upon it the license plate or plates issued for such vehicle in such other state or country, who moves into the county shall pay to the treasurer the proper registration fee as prescribed in this article within 30 days after the mailing of a notice of assessment by the treasurer.

(c) The registered owner of any motor vehicle, trailer and semi-trailer, for which a local vehicle license or registration fee has been paid to another jurisdiction in Virginia, who moves into the county and normally garages, stores or parks such motor vehicle, trailer or semi-trailer in the county shall not be assessed a registration fee for the remainder of the current license or registration term of the other jurisdiction.

(d) Every purchaser of a new or used motor vehicle, trailer or semi-trailer which normally will be garaged, stored or parked in the county shall pay to the treasurer the proper registration fee, as prescribed in this article, within 30 days after the mailing of a notice of assessment by the treasurer.

(Ord. No. 00-20, 11/21/00; Ord. No. 03-35, 9/2/03; Ord. No. 07-19, 10/16/07; Ord. No. 13-3, 3/19/13)

Sec. 15-24. Issuance of registration.

Upon payment of the fee by mail, as provided for in section 15-23, the treasurer shall issue a receipt upon request for the motor vehicle, trailer or semitrailer covered by the application. The treasurer shall issue a receipt for any fees paid in person.

(Ord. No. 03-35, 9/2/03; Ord. No. 07-19, 10/16/07)

Sec. 15-25. Vehicles registered in other localities.

It shall be unlawful for any owner or operator of a motor vehicle, trailer or semitrailer who is required by law by another locality to obtain and display on the owner's or operator's motor vehicle, trailer or semitrailer a valid decal issued by such locality to drive or park such motor vehicle, trailer or semitrailer on any highway in the county unless a current decal from such other locality is displayed thereon. This subsection shall only be applicable if such other locality is a party to a compact with the county pursuant to § 46.2-752.K., Code of Virginia, for the regional enforcement of licensing requirements.

(Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Sec. 15-26. Imposition of license fee for motor vehicles not displaying current state license plates.

There is hereby imposed an annual license fee of one hundred dollars ($100.00) per motor vehicle on the owners of motor vehicles in the county which do not display current state license plates and which are not exempted as provided in section 15-30 of this article.
(Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Sec. 15-27. Terms for which license fee applicable.

The annual license fee imposed by section 15-26 shall be payable in advance on February 15 of each year and ending on the fourteenth of February of the succeeding year; provided, further, that such fee shall be due, except as hereinabove specified, on the first day that the owner is subject to the fee in accordance with the provisions of section 15-26.
(Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Sec. 15-28. Proration of license fee.

In any case wherein the license required by section 15-26, is being purchased on or after August 15 of any year, and the owner was not required to have paid a license fee before such date of purchase, the amount thereof shall be fifty dollars ($50.00) instead of one hundred dollars ($100.00).
(Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Sec. 15-29. Payment of license fee and evidence thereof.

The license fee imposed by section 15-26 of this article shall be paid to the county treasurer, who shall issue a receipt on a form supplied by the county administrator.
(Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Sec. 15-30. Exemptions.

The following motor vehicles shall be exempt from the license fee imposed by section 15-26 of this article:

(a) Any motor vehicle which is in a public dump, in an "automobile graveyard" as defined in section 33.1-348, Code of Virginia, or in the possession of a licensed junk dealer or a licensed motor vehicle dealer.

(b) Any vehicle being held or stored by or at the direction of any governmental authority, any vehicle owned by a member of the armed forces on active duty, or any vehicle regularly stored within a structure.

(c) Any motor vehicle as to which a temporary permit has been issued by the division of motor vehicles, pursuant to the provisions of section 46.2-650, Code of Virginia.

(d) Any motor vehicle as to which the division of motor vehicles has issued a temporary one-trip permit, pursuant to the provisions of section 46.2-651, Code of Virginia.

(e) Any tractor truck or truck operating pursuant to a special temporary registration or permit issued by the division of motor vehicles for the transportation of heavy construction equipment, cranes, well-digging apparatus and other heavy equipment upon the highways of this state from one point to another within this state or from this state to a point or points without this state, or from without this state to a point or points within this state, pursuant to the provisions of section 46.2-

652, Code of Virginia.

(f) Any motor vehicle operating under a special temporary registration or permit issued by the division of motor vehicles for the transportation of mobile homes or house trailer from one point to another within this state, or from this state to a point or points without this state, or from without this state to a point or point within this state, pursuant to the provisions of

section 46.2-653, Code of Virginia.

(g) Any backhoe, any truck bearing a machine for spraying fruit trees and plants or the owner or lessee of the truck, any motor vehicle used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner thereof, any farm machinery and tractors, any motor vehicle validly registered in another state and bearing valid license plates issued by such state, for the use of which the owner or lessee of the farm has contracted as an incidental part of the harvesting of a crop from such farm, while such vehicle is engaged in moving farm produce from such farm as an incidental part of such harvesting operations, any farm or other tractor or similar vehicle owned by a sawmill operator, any motor vehicle used at mines, any motor vehicle used by a commercial fisherman, his agent or employee for the purposes of transporting his boat or boats or other equipment in his trade, and any other vehicle exempted from the requirement to obtain license plates and decals, pursuant to the provisions of sections 46.2-663 through 46.2-665, 46.2-667 through 46.2-669, 46.2-671 and 46.2-674, Code of Virginia.

(h) Any motor vehicle engaged in coal mining operations or other types of mining and quarrying operations, where the sole function of said motor vehicle is to haul coal from mine to tipple or to haul other mined or quarried products from mine or quarry to the processing plant, pursuant to the provisions of section 46.2-675, Code of Virginia.

(i) Any vehicle designed to transport persons playing golf and their equipment from one hole on a golf course to another, and which is not operated on or over any public highway of this state for any other purpose other than for the purpose of operating it across a highway from one hole of a public or private golf course to another hole thereof and any self-propelled vehicle, designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts, or cleats, pursuant to the provisions of section 46.2-676 and 46.2-679, Code of Virginia.

(j) Any motor vehicle properly registered in Maryland and used for the purpose of hauling oyster shells for a distance of less than three (3) miles on a public highway of this state to navigable waters to be further transported by water to Maryland, pursuant to the provisions of section 46.2-680, Code of Virginia.

(k) Any firefighting truck, upon which there is permanently attached firefighting apparatus when such vehicle is owned or under exclusive control of a volunteer fire department, and ambulances or other vehicles owned or used exclusively by such volunteer fire department of volunteer lifesaving or first aid crew or rescue squad, provided that any such vehicle is used exclusively as an ambulance or lifesaving and first aid vehicle and is not rented, leased or loaned to any private individual, firm or corporation, and no charges are made by such organization for the use of such vehicles, pursuant to the provisions of section 46.2-681, Code of Virginia.

(l) Farm tractors, road rollers and road machinery used for highway purposes, pursuant to the provisions of section 46.2-682, Code of Virginia.

(m) Any machine known as a traction engine or any locomotive engine or electric car running on rails, pursuant to the provisions of section 46.2-683, Code of Virginia.

(n) Any motor vehicle as to which a written permit has been obtained from the local police authorities having jurisdiction over highways in the county for the purpose of operating it or moving it or causing it to be moved or operated upon the highways of the county from the factory where manufactured or assembled to a railway depot, vessel or place of shipment or delivery, pursuant to the provisions of section 46.1-119, Code of Virginia.

(o) Any motor vehicle as to which a written permit has been obtained from the local police authorities having jurisdiction over highways in the county for the purpose of operating it or moving it or causing it to be moved or operated upon the highways of the county from a vessel, railway

depot, warehouse or any place of shipment or from a factory where manufactured or assembled to a sales room, warehouse or place of shipment or transshipment, pursuant to the provision of section 46.1-120, Code of Virginia.

(p) Any motor vehicle located more than one thousand feet (1,000') from the nearest edge of the hard surface of any interstate or primary highway or more than five hundred feet (500') from the nearest edge of the hard surface of any other highway.

(q) Any motor vehicle which is screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of any highway or adjacent properties.

(r) Vehicles which are stored on private property for a period not in excess of sixty (60) days, for the purpose of removing parts for the repair of another vehicle.

(Ord. No. 03-35, 9/2/03—effective January 1, 2004)

Secs. 15-31—15-40. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING*

Sec. 15-41. Lights on parked or stopped vehicles.

Any vehicle parked or stopped on a highway, whether attended or unattended, between sunset and sunrise shall display at least one light projecting a white or amber light visible in clear weather from a distance of five hundred (500) feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of five hundred (500) feet to the rear. No lights, however, need be displayed upon any such vehicle when legally parked.

(Ord. No. O97-2, 2/19/97)

Sec. 15-42. Stopping on highways.

No person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown. In the event of such an emergency, accident, or breakdown, the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are in working order. A report of the vehicle's location shall be made to the nearest law-enforcement officer as soon as practicable and the vehicle shall be moved from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If the vehicle is not promptly removed, such removal may be ordered by a law-enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

(Ord. No. O97-2, 2/19/97)

*Cross reference—Plan for parking facilities required for musical or entertainment festivals, § 3-59(g); surfacing requirements for off-street parking areas at automobiles graveyards and junkyards, § 5-7; parking in fire lanes prohibited, § 11-24; off-street parking and loading, § 24.1-600 et seq.

Sec. 15-43. Uncontested payment of parking citation penalties; certification of contest of citation.

(a) Every person receiving a citation from a law-enforcement officer that he has violated a provision of this Code regulating parking may waive his right to appear and be tried for the offense set forth in the citation. Such waiver shall be effective upon voluntary payment of ten dollars ($10.00) to the county treasurer's office, within five (5) days after receipt of the citation, or upon voluntarily placing ten dollars ($10.00) in a reply mail envelope and mailing it to the county treasurer's office, so that it is postmarked within forty-eight (48) hours after receipt of the citation; provided, however, that any citation for a violation of section 15-47.1 with respect to parking in a space reserved for persons with disabilities or for a violation of sections 15-48(a), (b) or (c) with respect to parking on certain designated streets or during restricted hours, parking on streets designated for resident-only parking, and the parking of certain classes of vehicles in areas zoned for residential use shall require a voluntary payment of fifty dollars ($50.00) to effectuate the aforesaid waiver.

(b) All uncontested parking citations paid under this section shall be accounted for by the county treasurer. The contest, by any person, of a parking citation shall be certified, in writing, upon an appropriate form, to the general district court by the county treasurer.

(c) Whenever a reply mail envelope is used for transmitting cash, check, draft or money order by mail to the county treasurer's office pursuant to the provisions of this section, the responsibility for receipt of the cash, check, draft or money order by the treasurer shall be that of the registered owner of the vehicle on which the citation was placed.

(Ord. No. 02-8, 6/4/02; Ord. No. 10-11(R), 6/15/10; Ord. No. 10-15(R), 7/20/10)

Sec. 15-44. Procedure of delinquent parking citations.

(a) The treasurer shall cause a complaint or summons to be issued for delinquent parking citations.

(b) Notwithstanding the provisions of subsection (a) above, before any summons shall issue for the prosecution of a violation of this Code or other ordinance of the county regulating parking, the violator shall have been first notified by mail at his last known address or at the address shown for such violator on the records of the state Department of Motor Vehicles, that he may pay the fine provided by law for such violation, within five (5) days of receipt of such notice, and the officer issuing such summons shall be notified that the violator has failed to pay such fine within such time. The notice to the violator required by the provisions of this section shall be contained in an envelope bearing the words “Law Enforcement Notice” stamped or printed on the face thereof in all capital letters. If “window” envelopes are used, the words “Law Enforcement Notice” shall be clearly visible through the window of the envelope.

(Ord. No. 01-17(R), 10/2/01; Ord. No. 11-9, 6/21/11)

Sec. 15-45. Presumption in prosecutions for parking violations.

In any prosecution charging that a vehicle has been parked in violation of any provisions of this Code or other ordinance of the county, proof that the vehicle described in the complaint, summons, parking ticket citation or warrant was parked in violation of such provision, together with proof that the defendant was at the time of such parking, the registered owner of the vehicle, as required by chapter 6 (section 46.2-600 et seq.), title 46.2, Code of Virginia, shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

Sec. 15-46. Removal, storage and sale of certain unattended vehicles.

(a) Any motor vehicle, trailer or semitrailer, or parts thereof, may be removed by or under the direction of the sheriff for safekeeping to a storage area if:

(1) It is left unattended on a public highway or other public property and constitutes a traffic hazard;

(2) It is illegally parked;

(3) It is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee or occupant; or

(4) It is left immobilized on a public roadway by weather conditions or other emergency situations.

(b) This section shall not authorize removal of motor vehicles, trailers, semitrailers or parts thereof from private property without the written request of the owner, lessee or occupant of the premises. The person at whose request a motor vehicle, trailer, semitrailer or part of a motor vehicle, trailer or semitrailer is removed from private property shall indemnify the county against any loss or expense incurred by reason of removal, storage or sale thereof.

(c) As promptly as possible, each removal shall be reported by the sheriff to the county administrator and to the owner of the motor vehicle, trailer or semitrailer.

(d) Before obtaining possession of the motor vehicle, trailer, semitrailer or part thereof, the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner. If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the department of motor vehicles against the motor vehicle, trailer, semitrailer or part of a motor vehicle, trailer, semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of article II, section 15.51, of this chapter**.**

Sec. 15-47.1. Parking in a parking space reserved for persons with disabilities.

(a) It shall be unlawful for the operator of any vehicle not displaying either (i) disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under Section 46.2-1241, Code of Virginia, or (ii) DV disabled parking license plates issued under subsection B of Section 46.2-739, Code of Virginia, to park such vehicle in a parking space reserved for persons with disabilities that limit or impair their ability to walk.

(b) It shall be unlawful for a person who is not limited or impaired in his or her ability to walk to park a vehicle in a parking space reserved for persons with disabilities that limit or impair their ability to walk, except when transporting a person with such a disability in the vehicle.

(c) For purposes of this section, the term "parking space reserved for persons with disabilities that limit or impair their ability to walk" shall mean those parking spaces that have been identified in accordance with the provisions of Section 36-99.11, Code of Virginia. This section requires that such signs be designed and constructed in conformance with the Uniform Statewide Building Code, that they be identified by the International Symbol of Accessibility, and that they be above grade, with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

(d) Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00). A summons or parking ticket for such offense may be issued by the sheriff or any deputy sheriff or special police officer of York County, or any other uniformed personnel employed by the County to enforce parking regulations, without the necessity of a warrant being obtained by the owner of any private parking area.

(e) In any prosecution charging a violation of this section, proof that the vehicle described in the complaint, summons, parking ticket or citation, was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (Section 46.2-600 et seq.) Code of Virginia, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(f) No violation of this section shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in Section 36-99.11, Code of Virginia, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

(Ord. No. O97-13, 6/18/97)

Cross reference—Reserved parking for the handicapped in public areas, § 17-89(c).

Sec. 15-48. Parking prohibited or restricted in specified places.

(a) *Secondary system highways.* No person shall park a vehicle in any of the following places within any part of the state secondary system of highways in the county:

(1) On Comte de Grasse Street (a portion of State Route 1002) in Yorktown;

(2) On Read Street (State Route 1004) between Main and Water Streets in Yorktown;

(3) On Ballard Street (a portion of State Route 1001);

(4) On Buckner Street (State Route 1007) between Main and Water Streets in Yorktown;

(5) On Water Street (in part a portion of State Route 1002) in Yorktown between Comte de Grasse Street, on the east and its intersection with the Colonial National Historical Park access ramp opposite the Yorktown Victory Center on the west, excepting the south side of Water Street between Read Street and a point approximately 340 feet east of Ballard Street;

(6) On Mathews Street (Route 1001) between Route 17 and Water Street (Route 1002);

(6.1) On Zweybrucken Road (Route 1001) between Main Street and Ballard Street;

(6.2) On Main Street (Route 1001) between Zweybrucken Road and Read Street, except as set forth in Section (b)(1), herein;

(6.3) On Main Street (Route 1001) between Ballard Street and Martiau Street;

(6.4) On Martiau Street (Route 1008) between Main Street and dead end;

(6.5) On Alexander Hamilton Boulevard (Route 1012) between Route 17 and Ballard Street, except as set forth in Section (b)(1), herein;

(6.6) On Read Street (Route 1004) between Main Street and Ballard Street;

(6.7) On Church Street (Route 1003) between Main Street and the entrance to the National Park Service parking lot, except as set forth in Section (b)(1), herein;

(6.8) On Church Street (Route 1003) between Main Street and the entrance to the York Hall parking lot, except as set forth in Section (b)(1), herein;

(7) On the Back Creek Park recreational access road (State Route 1291) from State Route 173 eastwardly approximately one thousand eight-hundred feet (1,800') to its terminus at a cul-de-sac;

(8) On the New Quarter Park recreational access road (State Route 1314) from State Route 1330 northwardly approximately one and two-tenths (1.2) miles to its terminus.

(9) On Glen Laurel Way (State Route 1069) between the hours of 7:00 am and 3:00 pm, Monday through Friday.

(10) On Elmhurst Drive (State Route 1370) and Crepe Myrtle Drive (State Route 1371), for their entire lengths.

(11) On Bay Tree Beach Road (Route 712) beginning at a point 1,550 feet north of its intersection with Seaford Road and extending an additional 2,600 feet to the northeast where Bay Tree Beach Road turns in a southerly direction, said segment generally encompassing the portion of the road that passes through the low-lying marsh area.

(b) Additional Parking Restrictions Applicable in Yorktown.

(1) *Short-term Parking Allowed on Certain Streets:* Between the hours of 8:00 a.m. and 6:00 p.m., parking for a period of time in excess of two (2) hours shall be prohibited on the following streets or street segments, except by permit issued pursuant to this section:

a. Main Street (both sides) between Ballard Street and Read Street.

b. Main Street (north side) between Read Street and Nelson Street.

c. Church Street (east side) between Main Street and the entrance to the National Park Service parking lot.

d. Church Street (west side) between Main Street and the entrance to the York Hall parking lot.

e. Alexander Hamilton Boulevard (north side) between Ballard Street and the entrance to the York-Poquoson Courthouse.

The owner/operator of businesses fronting on any of the above listed street segments may request a special parking permit for their vehicle and for the vehicles of their employees which permit shall be for the purpose of allowing parking in excess of two (2) hours along the otherwise restricted street segments. Such permits shall be in the form of a decal for the business owner/operator's vehicle(s) and a mirror hanger for each of their employees.

(2) *Residents-only on-street parking restrictions*. The following residents-only parking restrictions on certain streets in Yorktown are established in order to reduce or prevent congestion and hazardous traffic conditions in residential areas, to protect those areas from excessive noise and other adverse impacts of automobiles, to protect the residents of these areas from unreasonable burdens in gaining access to their property and to preserve the residential character of such areas and the property values therein.

a. *Restricted streets.* The following streets or street segments shall be covered by the restrictions set forth herein:

1. Bacon Street – entire length

2. Smith Street – entire length

3. Nelson Street – entire length

4. Church Street – between Ballard Street and the entrance to the National Park Service parking lot

5. Church Street – between the York Hall parking lot entrance and it terminus at the Church Street stairs to the waterfront

6. Ambler Street – entire length

7. Pulaski Street – entire length

Parking along the side or shoulders or within the right-of-way of the above listed streets shall be prohibited except by the holders of permits granted under the terms and procedures of this section, or pursuant to the exceptions established herein.

b. *Eligibility for permit.* Persons who legally reside on, or who are owners of, property abutting a street regulated under this section may obtain permits to park in the otherwise restricted areas. Permits issued pursuant to this section shall be limited to one for each motor vehicle registered in the resident's or property owner's name or held by the resident or property owner under a written automotive lease, which motor vehicle must be kept and regularly used by the owner or resident at his or her place of residence on the restricted street. Before issuing such permit, the County Administrator or his designee shall verify that the motor vehicle for which the permit is to be issued meets the above requirements. All applicable county motor vehicle taxes and fees relative to the motor vehicle must be paid prior to the issuance of a permit for such vehicle. An applicant for a permit must show evidence satisfactory to the county of ownership of the motor vehicle and, if the applicant occupies the property under a lease, produce a copy of a valid written lease for occupancy of the property.

c. *Issuance of permits and decals*. Subject to verification of resident or property owner status as noted above, a permit and a display decal shall be issued for each registered vehicle. Permits and decals shall be issued on an annual, calendar-year basis. A parking permit decal issued hereunder shall be displayed only on the vehicle to which it is issued and assigned and shall not be transferred from one vehicle to another. Should a vehicle to which a parking permit and decal is issued and assigned be sold, traded or otherwise disposed of, such decal shall be removed and destroyed. A new permit and decal shall be secured for any replacement vehicle, which decal shall be issued for the remainder of the permit year, free of cost.

d. *Exceptions.* The parking prohibitions of this division shall not apply to:

1. Service or delivery vehicles when providing services or making deliveries to properties on the restricted street.

2. Emergency, law enforcement, rescue, construction or utility vehicles or other public use vehicles when on a call or engaged in work on or along the subject streets.

e. *Proper display of resident decals*. Decals shall be properly displayed as follows:

1. A decal shall be displayed in the lower left corner of the rear window of the vehicle for which the permit has been issued. The decal must be adhered directly to the window and may not be taped or affixed in any other manner which may allow the transfer of the decal to another vehicle. If the vehicle does not have a rear window or the rear window is legally obscured (i.e., louvers), the decal may be displayed on the driver's side of the vehicle, adhered to the lower right corner of the side window nearest to the rear of the vehicle. For a convertible or other vehicle with no permanent rear window, the decal may be adhered to the driver's side of the windshield. A decal issued with respect to a motorcycle shall be displayed beside the state inspection sticker on the motorcycle front fork or adjacent to the state inspec-

tion sticker, or shall be affixed to the lower portion of the windscreen, if one exists.

2. Any alteration of a decal shall render invalid the decal and the parking permit with which it is associated.

3. A person to whom a decal has been issued shall not loan, assign, sell or otherwise convey such decal to any other person or vehicle.

4. Decals, if destroyed or lost, may be re-issued within the same permit year, upon written explanation, satisfactory to the county administrator.

f. *Proper display of guest and visitor permits*. Guest and visitor permits shall be displayed by hanging from the center (interior) rear view mirror so that the printing on the permit faces the front windshield. Any alteration(s) to a guest permit, or obscuring of information printed on a guest permit, such as by opaque markings or by folding such permit so any printed information is not visible, shall render the guest permit invalid.

1. Each occupied residential property shall be issued three (3) guest parking permits (mirror hangers).

2. Guest permits shall be displayed within a vehicle only while the owner or operator of such vehicle is a guest at the occupied residential property to which the permit has been issued.

3. Guest permits may be temporarily loaned by the member(s) of one affected household only to another household located within the same restricted parking block as identified in subsection (a) above, for the purpose of accommodating a large gathering of guests at a particular household. No other transfers or loans of guest permits shall be permitted.

4. Guest permits, if lost or misplaced, shall not be re-issued within the same permit year.

g. *Special event parking*.

1. A person legally residing on property which qualifies for a parking permit under this section may apply to the county administrator or his designee for the issuance of a special event parking waiver, to allow persons attending a special event taking place at the applicant's residence to park within the regulated area during such event. Qualifying special events include, but are not limited to, weddings, funerals, social functions and other similar events which would cause persons to visit the applicant's residence on a specific day between specified hours.

2. If the county administrator or his designee is satisfied that the proposed event will require parking in excess of that normally allowed the applicant under this section, then the county administrator or his designee may suspend the permit parking requirements in all or a portion of the permit parking area as deemed necessary to provide additional parking for the particular event to an extent that will not unduly reduce the number of parking spaces needed by other residents of the area during the hours of such event.

h. *Penalty for violation.* Any person who violates any provision of this section shall be guilty of a traffic infraction and punished as provided in section 15-2 of this Chapter.

(c) *Parking of certain classifications of vehicles in certain designated areas*

(1) Statement of Intent: The purpose of the following regulations is to define certain classifications of vehicles and to identify those areas where it is necessary to prohibit the parking of such classified vehicles in order to enhance pedestrian and vehicular safety, protect and preserve the public investment in such streets that are designed primarily for residentially-related traffic, and to protect and preserve the character of residential areas. In addition, where applied in non-residential areas, such restrictions are intended to provide for enhanced vehicular safety and to protect and preserve the character of the subject industrial or office park or other commercial/industrial area.

(2) Classification of Vehicles: For the purposes of this subsection, the classification of vehicles shall be as follows:

a. Commercial Vehicle:

1. Any vehicle with a gross vehicle weight of ten thousand (10,000) pounds or more, or a length of 21 feet or more, including trailers or other attachments;

2. Any vehicle, regardless of size, used in the transportation of hazardous materials as defined in section 103 of the federal Hazardous Materials Transportation Act (49 C.F.R. Part 172, Subpart F);

3. Any heavy construction equipment, whether located on the street or on a truck, trailer or semi-trailer;

4. Any solid waste collection vehicle, tractor truck or tractor truck/semi-trailer or tractor/truck combination, dump truck, concrete mixer truck, or towing or recovery vehicle;

5. Any trailer, semi-trailer or other vehicle in which food or beverages are stored or sold

b. Passenger Carrying Vehicle

1. Any vehicle designed to carry sixteen (16) or more passengers, including the driver.

2. Any vehicle licensed by this Commonwealth for use as a common or contract carrier or as a limousine.

c. Recreational Vehicle

A device, whether or not self-propelled, designed or used for transporting persons or property for or in connection with recreation, as distinguished from mere transportation, having a gross vehicle weight of ten thousand (10,000) pounds or more, or a length of 21 feet or more, including trailers or other attachments, and including such things as motor homes, travel trailers, campers, boats and boat trailers.

(3) Designation of Specific Vehicle Classifications and Areas Subject to Restriction

No person shall park any commercial vehicle, passenger-carrying vehicle, or recreational vehicle (all as defined herein) on any road, highway or street within the state secondary system of highways in any of those areas or subdivisions in the County as described below. In the case of subdivisions, the areas governed by this subsection shall be

those areas commonly known by the names listed below and designated on the plats of subdivision recorded in the clerk's office of the circuit court of the county. Such restrictions shall have no application to any privately owned street, or any street owned by a property owners association within the listed areas. In the event a street serves as the dividing line between a designated residential subdivision and an adjoining commercial zoning district, the parking restrictions shall apply only on the residentially-zoned side of the street.

a. Skimino Farms subdivision, all sections.

b. Greensprings vicinity being further described as the area bounded by Bypass Road on the south, Waller Mill Road on the west, Carrs Hill Road on the north, and Route 132 on the east.

c. Penniman Road/Government Road/Hubbard Lane vicinity being further described as the area bounded by Government Road and Penniman Road on the south and southwest, the Williamsburg city line on the west and northwest, the Colonial Parkway on the north, and Interstate 64 on the northeast and southeast, including, but not limited to, all sections of the Queenswood, Charleston Heights, Springfield Terrace, Nelson Park, York Terrace, Magruder Woods, Bruton Glen, Penniman East, Penniman Woods, Queens Creek Estates, and Middletown Farms subdivisions.

d. Carver Gardens

e. Yorktown, being further described as the area bounded by the York River on the northeast, the United States Coast Guard Reserve Training Center on the east, Route 238 and the Colonial Parkway on the southwest, and Yorktown Creek on the west.

f. York Crossing.

g. Glen Laurel

h. Yorkshire Park

i. Heritage Hamlet

j. Plantation Acres

k. Bethany Terrace

l. Grafton Woods

m. Sommerville

n. Villages of Kiln Creek

o. Williamsburg Bluffs

p. Breezy Point

q. Woodlake Crossing

r. Mill Crossing

s. The Homestead

t. Yorkshire Downs

u. Coventry

v. The Greenlands

w. Meadowlake Farms (aka—Heatherlea)

x. Wythe Creek Farms

y. Lakeside Forest

z. Wood Towne Quarters

aa. Victory Industrial Park

bb. Willow Lakes

cc. Brandywine

dd. Gaines Estates

ee. Lotz Acres Estates, Section 2

ff. Tabb Meadows

gg. Running Man

hh. Victory Meadows

ii. Cain Terrace

jj. York Manor

kk. Byrd Lane

ll. Kings Court and Hickory Hill subdivisions and Barham Boulevard

mm. Sherwood Forest

(4) Procedures for Consideration and Establishment of Classifications and Area Designations:

a. The determination of streets and areas to be subject to such parking restrictions shall be based on characteristics including, but not necessarily limited to:

1. location within a residential zoning classification or within a designated business, office or industrial park or other commercial/industrial area with special character or features that could be adversely impacted by on-street parking of large vehicles;

2. density of development, with primary focus on residential subdivisions with a typical lot size of one (1) acre or less;

3. predominant lot width and street frontage characteristics, with primary focus on subdivision settings where typical lot widths are 150 feet or less;

4. location-specific safety issues including, but not limited to, considerations of traffic volumes, street surface width, sight distance, and use characteristics;

5. documentation or determination of inappropriate parking of classified vehicles or the potential for such parking to occur.

b. Subsequent to this preliminary review and consideration, the Board will determine whether an amendment to this ordinance designating additional streets and areas should be formally considered and, if so, it shall be advertised for public hearing by the Board in accordance with the advertisement and public notice requirements for County Code amendments, as set forth in the Code of Virginia. In addition to the standard legal advertisements, the Board's intention to consider such restrictions will be advertised on the County's government access cable channel and through such other media opportunities as the Board and County Administrator determine appropriate.

c. Concurrently with the advertisement of the proposed ordinance for public hearing, the Board will transmit a copy of the proposal to the Virginia Department of Transportation Residency Administrator. The County staff will coordinate with the Residency Administrator to ensure communication of any VDOT concerns or considerations to the Board for its review. Among other considerations, the Residency Administrator will be asked to review the potential for such restrictions to shift commercial vehicle parking to Primary routes or to other portions of Secondary routes where more serious traffic safety problems might be created.

d. The County Administrator shall ensure the fabrication and posting of all such signs as are necessary to inform the public of the restrictions that apply to the subject streets and the subsequent maintenance of such signs and the prompt repair, removal and/or replacement of any signs that are damaged or destroyed.

(d) *Application.* The prohibitions and restrictions set forth in this section shall have no application when a vehicle is parked or stopped in compliance with the order of a law enforcement officer or a traffic control device, or during a permitted period of time in officially-designated parking areas, or in case of vehicular breakdown, or in an emergency which renders it necessary. Moreover, the prohibitions and restrictions contained in subsection (c) of this section shall have no application to any vehicle while such vehicle is in actual use for loading or unloading or while actually engaged in the provision of goods or services.

(e) *Posting of signs.* The county administrator shall cause "No Parking" and "1-Hour Parking" signs to be posted in the subject areas. Such signs shall comply with all applicable standards and specifications as set forth in the Manual of Uniform Traffic Control Devices (MUTCD) and the specifications that the County intends to use shall be coordinated with and approved by the Resident Engineer prior to fabrication. The County shall secure such permits as may be necessary for its personnel to work within and install the signs in VDOT rights-of-way.

(f) *Application of sections 15-43 through 15-45.* The provisions of sections 15-43, 15-44 and 15-45 of this Code shall apply in the enforcement of this section.

(g) *Penalty for violation.* Any person who violates any provision of this section shall be guilty of a traffic infraction and punished as provided in section 15-2 of this Code.

(Ord. No. 02-8, 6/4/02; Ord. No. 02-12, 7/16/02; Ord. No. 03-38, 9/2/03; Ord. No. 04-24, 10/26/04; Ord. No. 05-18, 6/21/05; Ord. No. 05-25, 9/20/05; Ord. No. 05-27, 10/25/05; Ord. No. 06-6, 3/21/06; Ord. No. 06-25(R), 9/19/06; Ord. No. 06-26, 9/19/06; Ord. No. 09-3, 3/17/09; Ord. No. 09-9, 5/19/09; Ord. No. 09-26, 12/15/09; Ord. No. 10-11(R), 6/15/10; Ord. No. 10-15(R), 7/20/10; Ord. No. 12-10, 6/19/12; Ord. No. 13-19, 12/17/13)

Sec. 15-49. Keeping of inoperative motor vehicles, trailers or semitrailers on property zoned residential or commercial.

(a) It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes pursuant to chapter 24.1, Zoning, of this Code any motor vehicle, trailer or semitrailer, as such are defined in section 46.2-100, Code of Virginia, which is inoperative. As used in this section, “shielded or screened from view” means not visible by someone standing at ground level from outside the property on which the subject vehicle is located.

(b) It shall be unlawful for any person, firm or corporation on any property zoned for residential or commercial purposes pursuant to chapter 24.1, Zoning, of this Code to keep more than one (1) inoperative motor vehicle, even if shielded or screened from view by covers, unless they are kept within a fully enclosed building or structure. Notwithstanding the foregoing, however, if the owner of such vehicle shielded or screened from view but not within a fully enclosed building or structure, can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for restoration or repair may remain on the property. Any person, firm or corporation operating in a commercial district a use permitted by category 12, Motor Vehicle/Transportation, of section 24.1-306 of this Code may keep more than one (1) inoperative motor vehicle outside a fully enclosed building or structure provided it is shielded or screened from view and otherwise conforms with the requirements of this Code.

(c) As used in this section, an "inoperative motor vehicle" shall mean any motor vehicle which is not in operating condition, or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle, or on which there are displayed neither valid license plates nor a valid inspection decal.

(d) The provisions of this section shall not apply to a licensed business which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer or scrip processor, nor shall it apply to any motor vehicle for which the annual license tax required by section 15-31 has been paid or to any motor vehicle exempt from such license tax by virtue of subsections 15-35(a) through and including 15-35(o).

(e) The owners of property zoned for residential or commercial purposes shall, by the effective date of the ordinance from which this section was derived, comply with the provisions of this section.

(f) The county administrator may remove or cause to be removed any such inoperative motor vehicles, trailers or semitrailers whenever the owner of the premises, after reasonable notice, has failed to do so.

(g) In the event the county administrator removes or causes to be removed any such inoperative motor vehicles, trailers or semitrailers, after having given such reasonable notice, the county may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

(h) The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the treasurer as taxes and levies are collected.

(i) Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the county.

(j) A violation of this section shall be subject to a civil penalty, not to exceed fifty dollars ($50.00) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed two hundred dollars ($200.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative

facts result in civil penalties that exceed a total of three thousand dollars ($3,000.00) in a 12-month period. Notwithstanding the foregoing, a violation of this section shall constitute a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or for a similar violation, not arising from the same set of operative facts, within a 24-month period. The classifying of such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

(Ord. No. 04-16, 8/17/04; Ord. No. 05-17, 6/21/05)

Sec. 15-50. Leaving vehicles on private property without the owner's consent; removal and disposition.

(a) It shall be unlawful for any person to leave any motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, semitrailer on the private property of any other person without his consent.

(b) On complaint of the owner of the property on which such motor vehicle, trailer, semitrailer or part thereof has been left for more than seventy-two (72) hours, such motor vehicle, trailer, semitrailer or part thereof may be removed by or under the direction of the sheriff to a storage area.

(c) The owners of private property which is normally left open to the public for parking shall be required to post or cause to be posted signs warning that vehicles left on the property for more than seventy-two (72) hours will be towed or removed at their owner's expense.

(d) The person at whose request the motor vehicle, trailer, semitrailer or part thereof is so removed shall indemnify the county against any loss or expense incurred by reason of removal, storage or sale thereof.

(e) In the case of the removal of a motor vehicle, trailer, semitrailer or part thereof from private property pursuant to this section, the provisions of section 15-46 of this article shall apply to the disposal of such motor vehicle, trailer, semitrailer of part thereof. The department of motor vehicles shall be notified of such disposition.

Sec. 15-51. Abandoned motor vehicles.

(a) For the purposes of this section, the following words and phrases shall have the following meanings:

Abandoned motor vehicle. A motor vehicle, trailer or semitrailer or part of a motor vehicle, trailer or semitrailer that:

(1) Is inoperable and is left unattended on public property for more than forty-eight (48) hours;

(2) Has remained illegally on public property for more than forty-eight (48) hours: or

(3) Has remained for more than forty-eight (48) hours on private property without the consent of the property's owner regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.

Demolisher. Any person, firm or cooperation whose business is to convert a motor vehicle, trailer or semitrailer into processed scrap metal or otherwise to wreck or dismantle such vehicles.

Inoperable abandoned motor vehicle. An abandoned motor vehicle which is inoperable and whose fair market value, as determined by the commissioner of the revenue, is less than the cost of its restoration to an operable condition.

(b) The county administrator may take or cause to be taken into custody and dispose of any abandoned motor vehicle. In such connection, the county administrator may employ county personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations who may be independent contractors for removing, preserving and storing abandoned motor vehicles.

(c) When the county takes an abandoned motor vehicle into custody, the county administrator shall, within fifteen (15) days, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests in the vehicle of record that it has been taken into custody. The notice shall state the year, make, model and serial number of the abandoned motor vehicle; set forth the location of the facility where it is being held; and inform the owner and any persons having security interest of their right to reclaim it within fifteen (15) days after the date of the notice, after payment of all towing, preservation and storage charges resulting from placing the vehicle in custody. The notice shall state that the failure of the owner or persons having security interest to reclaim the vehicle within the time provided shall constitute a waiver by the owner and all persons having any security interests of all right, title and interest in the vehicle, and consent to the sale of the abandoned motor vehicle at a public auction.

(d) If records of the department of motor vehicles contain no address for the owner or no address of any person shown by the department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this section as to any person who cannot be notified pursuant to the foregoing provision of this section. Notice by publication may contain multiple listings of abandoned motor vehicles. Any notice of this kind shall be within the time requirements prescribed by this section for notice by mail and shall have the same contents required for a notice by mail.

(e) The consequence of failure to reclaim an abandoned motor vehicle shall be set forth in a notice given in accordance with and pursuant to this section.

(f) If an abandoned motor vehicle is not reclaimed as provided above, the county administrator shall, notwithstanding the provisions of section 46.2-617, Code of Virginia, sell it or cause it to be sold at public auction. The purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of ownership of others, shall receive a sales receipt at the auction, and shall be entitled to apply to and receive from the department a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling, and in that case no further titling of the vehicle shall be necessary. From the proceeds of the sale of an abandoned motor vehicle the county or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to this section. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interest therein, as their interests may appear, for ninety (90) days, and then be deposited with the treasurer of the county.

(g) Notwithstanding paragraph (a) above, any motor vehicle, trailer, semitrailer of part thereof shall be considered abandoned and may be reported by the garagekeeper to the county if it has been left in a garage for more than ten (10) days or for more than ten (10) days beyond the period

when the vehicle was to remain on the premises pursuant to a contract, after notice by regis-

tered or certified mail, return receipt requested, to the owner of record and all persons having security interest of record therein to reclaim the vehicle within fifteen (15) days of the notice. Any abandoned motor vehicle left in a garage may be taken into custody by the county in accordance with the provisions of this section and shall be subject to the notice and sale provisions set forth in this section. If, however, the vehicle is reclaimed, the person reclaiming it, in addition to the other charges required to be paid, shall pay the reasonable charges of the garagekeeper unless otherwise provided by contract. If the vehicle is sold pursuant to the provisions of this section, any garagekeeper's charges shall be paid from, and to the extent of, the excess of the proceeds of sale after paying the expenses of the auction, the costs of towing, preserving and storing the vehicle which resulted from placing the vehicle in custody and all notice and publication costs. For the purposes of this section, "garage" means any commercial parking place; motor vehicle storage facility; or establishment for the servicing, repair, maintenance or sale of motor vehicles whether or not the vehicle had been brought to that location with the consent of the owner or person in control of the premises, and "garagekeeper" means the operator of a garage.

(h) Notwithstanding any other provisions of this chapter, any inoperable motor vehicle, trailer, semitrailer or part of a motor vehicle, trailer or semitrailer which has been taken into custody pursuant to other provisions of this chapter may be disposed of to a demolisher, without the title and without the notification procedures, by the person or county on whose property or in whose possession the motor vehicle, trailer or semitrailer is found. The demolisher on taking custody of the inoperable abandoned motor vehicle, trailer or semitrailer shall notify the department of motor vehicles on forms and in the manner prescribed by the commissioner. Notwithstanding any other provision of law, no other report of notice shall be required in this instance.

Sec. 15-52. Penalty for failure to stop at certain monitored intersections.

The operator of a vehicle shall be liable for a monetary penalty of fifty dollars ($50.00) imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within the County as required by Code of Virginia sections 46.2-833; 46.2-835, and 46.2-836. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall include court costs.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.1. Definitions

For the purposes of this section, the following words and terms shall have the meanings ascribed to them in this section:

"Owner" shall mean the registered owner of such vehicle on record with the Department of Motor Vehicles.

"Traffic light signal violation monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of Code of Virginia sections 46.2-833, 46.2-835, or 46.2-836, as they may be amended from time to time. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection. The board of supervisors may, by resolution, authorize the placement of one or more traffic light signal monitoring systems at street or highway intersections

in the County, provided that the County shall install and operate traffic light signal photo-monitoring systems at no more than one intersection for every 10,000 residents within the County.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.2. Proof of violation.

Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by the County and authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.3. Presumptions and Rebuttal of Evidence.

In the prosecution for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a report by a law enforcement agency, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.4. Service of process.

A summons for a violation of this section may be executed pursuant to Code of Virginia section 19.2-76.2. Notwithstanding the provisions of Code of Virginia section 19.2-76, a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or rentor. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection (d), above, and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in Code of Virginia section 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least 60 business days from the mailing of the summons to inspect information collected by a traffic light signal violation monitoring system in connection with the violation.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.5. Confidentiality of information.

Information collected by a traffic light signal violation monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. On behalf of the County, a private entity may not obtain records regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of Code of Virginia sections 46.2-833, 46.2-835, or 46.2-836, or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If the County does not execute a summons for a violation of this section within 10 business days, all information collected pertaining to that suspected violation shall be purged within two business days.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.6. Certification.

The County shall annually certify compliance with Code of Virginia section 15.2-968.1 and make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of $1,000.
(Ord. No. 07-17, 10/16/07)

Sec. 15-52.7. Private entities.

A private entity may enter into an agreement with the County to be compensated for providing the traffic light signal violation monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only a law-enforcement officer employed by the County or by the York County Sheriff may swear to or affirm the certificate required by section 15-52.2, above.
(Ord. No. 07-17, 10/16/07)

CODE OF THE COUNTY OF YORK

Chapter 15.5

OBSCENITY

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ARTICLE I. IN GENERAL

Sec. 15.5-1. Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 1 misdemeanor.

Sec. 15.5-2. "Obscene" defined.

As used in this chapter, the word "obscene" means that which, considered as a whole, has as its dominant theme or purpose an appeal to prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof, or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters, and which, taken as a whole, lacks serious literary, artistic, political or scientific value.

Sec. 15.5-3. Obscene items enumerated.

For the purpose of this article, obscene items shall include:

(a) Any obscene book; or

(b) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, slide, motion picture; videotape recording; or

(c) Any obscene figure, object, article, instrument, novelty device or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words or sounds.

(Ord. No. O97-2, 2/19/97)

Sec. 15.5-4. Production, publication, sale, possession, etc., of obscene items.

(a) It shall be unlawful for any person to knowingly:

(1) Prepare an obscene item for the purpose of sale or distribution; or

(2) Print, copy, manufacture, produce or reproduce any obscene item for purposes of sale or distribution; or

(3) Publish, sell, rent, lend, transport in intrastate commerce or distribute or exhibit any obscene item, or offer to do any of these things; or

(4) Have in such person's possession, with intent to sell, rent, lend, transport or distribute any obscene item.

Possession in public or in a public place of any obscene item shall be deemed prima facie evidence of a violation of this section.

(b) For the purposes of this section, "distribute" shall mean delivery in person or by mail or messenger or by any other means by which obscene items may pass from one person to another.

Sec. 15.5-5. Obscene exhibitions and performances—Generally.

It shall be unlawful for any person to knowingly:

(a) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibition or performance, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene; provided, that no employee of any person or legal entity operating a theater, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theater or an officer of such entity, and has no financial interest in such theater, other than receiving salary and wages; or

(b) Own, lease or manage any theater, garden, building, structure, room or place and lease, let or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance.

Sec. 15.5-6. Advertising obscene items, exhibitions or performances— Generally.

No person shall knowingly prepare, print, publish or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item referred to in section 15.5-3, or of any obscene performance or exhibition referred to in section 15.5-5, stating or indicating where such obscene items, exhibition or performance may be purchased, obtained, seen or heard.

Sec. 15.5-7. Obscene placards, posters, bills, etc.

It shall be unlawful for any person to knowingly expose, place, display, post up, exhibit, paint, print or mark, or cause to be exposed, placed displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster, banner, bill, writing or picture which is obscene, or which advertises or promotes any obscene item referred to in section 15.5-3, or any obscene exhibition or performance referred to in section 15.5-5, or to knowingly permit the same to be displayed on property belonging to or controlled by such person.

Sec. 15.5-8. Coercing acceptance of obscene articles or publications.

No person shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books or publications, or by reason of the return thereof.

Sec. 15.5-9. Obscene photographs, slides and motion pictures.

(a) It shall be unlawful for any person to knowingly:

(1) Photograph himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or

(2) Model, pose, act or otherwise assist in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

(b) Any violation of this section shall constitute a Class 3 misdemeanor.
Cross reference—Certain motion pictures not to be visible to traveling public, § 3-1.

Sec. 15.5-10. Indecent exposure.

No person shall intentionally make an obscene display or exposure of his or her person, or the private parts thereof, in any public place, or in any place where others are present, or procure another to so expose himself or herself. No person shall be deemed to be in violation of this section for breast-feeding a child in any public place or any place where others are present.
(Ord. No. O97-2, 2/19/97)

Sec. 15.5-10.1. Nudity: Defined; prohibited; exceptions.

(a) As used in this section, "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks or to cover any of them with less than a fully opaque covering; or the showing of the female breast or any portion thereof below the top of the nipple, or the covering of the breast or any portion thereof below the top of the nipple with less than a fully opaque covering, or the depiction of covered or uncovered male genitals in a discernibly turgid state**.**
(Ord. No. O97-2, 2/19/97)

(b) Every person who knowingly, voluntarily and intentionally appears in public or in a public place or in a place open to the public or open to public view in a state of nudity, or employs, encourages or procures another person so to appear, shall be guilty of a misdemeanor.

(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama.

Sec. 15.5-11. Employing or permitting minor to assist in violation of article.

It shall be unlawful for any person knowingly to hire, employ, use or permit any person under the age of eighteen (18) years to do or assist in doing any act or thing constituting any offense under this article.
(Ord. No. O97-2, 2/19/97)

Sec. 15.5-12. Proceeding against obscene book.

(a) Whenever any citizen of the county or the county attorney has reasonable cause to believe that any person is engaged in the sale or commercial distribution of any obscene book in the county, such citizen or the county attorney may institute a proceeding in the circuit court of the county for adjudication of the obscenity of the book.

(b) A proceeding under this section shall be instituted by filing with the court a petition:

(1) Directed against the book by name or description;

(2) Alleging the obscene nature of the book; and

(3) Listing the names and addresses, if known, of the author, publisher and all other persons interested in its sale or distribution.

(c) Upon the filing of a petition pursuant to this section, the court, in term or in vacation, shall forthwith examine the book alleged to be obscene. If the court finds no probable cause to believe the book obscene, the judge thereof shall dismiss the petition; but if the court finds probable cause to believe the book obscene, the judge thereof shall issue an order to show cause why the book should not be adjudicated obscene. The order to show cause shall be:

(1) Directed against the book by name or description;

(2) Published once a week for two (2) successive weeks in a newspaper of general circulation within the county;

(3) If their names and addresses are known, served by registered mail upon the author, publisher and all other persons interested in the sale or distribution of the book; and

(4) Returnable twenty-one (21) days after its service by registered mail or the commencement of its publication, whichever is later.

(d) When an order to show cause is issued pursuant to this section, and upon four (4) day's notice to be given to the persons and in the manner prescribed by the court, the court may issue a temporary restraining order against the sale or distribution of the book alleged to be obscene.

(e) On or before the return date specified in the order to show cause issued under subsection (c), the author, publisher and any person interested in the sale or distribution of the book may appear and file an answer. The court may, by order, permit any other person to appear and file an answer amicus curiae.

(f) If no one appears and files an answer on or before the return date specified in the order to show cause, the court, upon being satisfied that the book is obscene, shall order the clerk of the court to enter judgment that the book is obscene, but the court, in its discretion, may except from its judgment a restricted category of persons to whom the book is not obscene.

(g) If an appearance is entered and an answer filed, the court shall order the proceedings set on the calendar for a prompt hearing. The court shall conduct the hearing in accordance with the rules of civil procedure applicable to the trial of cases by the court without a jury. At the hearing, the court shall receive evidence, including the testimony of experts, if such evidence be offered, pertaining to:

(1) The artistic, literary, medical, scientific, cultural and educational value, if any, of the book considered as a whole;

(2) The degree of public acceptance of the book, or books of similar character, within the county;

(3) The intent of the author and publisher of the book;

(4) The reputation of the author and publisher;

(5) The advertising, promotion and other circumstances relating to the sale of the book;

(6) The nature of classes of persons, including scholars, scientists and physicians, for whom the book may not have prurient appeal, and who may be subject to exception pursuant to subsection (f).

(h) In making a decision on the obscenity of the book, the court shall consider, among other things, the evidence offered pursuant to subsection (g), if any, and shall make a written determination upon every such consideration relied upon in the proceeding in its findings of fact and conclusions of law or in a memorandum accompanying them.

(i) If it finds the book not obscene, the court shall order the clerk of the court to enter judgment accordingly. If it finds the book obscene, the court shall order the clerk of the court to enter judgment that the book is obscene, but the court, in its discretion, may except from its judgment a restricted category of persons to whom the book is not obscene.

(j) While a temporary restraining order made pursuant to subsection (d) is in effect, or after the entry of a judgment pursuant to subsection (f) or (i), any person who publishes, sells, rents, lends transports in intrastate commerce or distributes or exhibits the book, or has the book in possession with intent to publish, sell, rent, lend, transport in the city, or distribute or exhibit the book, is presumed to have knowledge that the book is obscene under the provisions of this article.

(k) Any party to a proceeding under this section, including the petitioner, may appeal from the judgment of the court to the Supreme Court of Virginia, as otherwise provided by law.

(l) It is expressly provided that the petition and proceeding authorized under this section shall be intended only to establish scienter in cases where the establishment of such scienter is thought to be useful or desirable by the petitioner, and the provisions of this section shall in nowise be construed to be a necessary prerequisite to the filing of criminal charges under this article.

Sec. 15.5-13. Exceptions from article.

Nothing contained in this article shall be construed to apply to:

(a) The purchase, distribution, exhibition or loan of any book, magazine or other printed or manuscript material by any library, school or institution of higher learning supported by public appropriation;

(b) The purchase, distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning supported by public appropriation;

(c) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum of fine arts, school or institution of higher learning supported by public appropriation.

Secs. 15.5-14—15.5-24. Reserved.

ARTICLE II. OFFENSES RELATING TO JUVENILES

Sec. 15.5-25. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them in this section:

Harmful to juveniles. Harmful to juveniles means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

(a) Predominantly appeals to the prurient, shameful or morbid interest of juveniles; and

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles; and

(c) Taken as a whole, lacks serious literary, artistic, political or scientific value for juveniles.

Juvenile. Juvenile means any person under the age of eighteen (18) years.

Knowingly. Knowingly means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both the character and content of any material described herein, which is reasonably susceptible of examination by the defendant, and the age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

Nudity. Nudity means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

Sadomasochistic abuse. Sadomasochistic abuse means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual conduct. Sexual conduct means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breasts.

Sexual excitement. Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Sec. 15.5-26. Unlawful sales or loans to juveniles—Generally.

It shall be unlawful for any person to knowingly sell, rent, or loan to a juvenile or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:

(a) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles, or

(b) Any book, pamphlet, magazine, printed matter however reproduced or sound recording which contains any matter enumerated in (a) above, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.

(Ord No. O97-2, 2/19/97)

Sec. 15.5-27. Admitting juveniles to premises exhibiting obscene films or other presentations.

It shall be unlawful for any person to knowingly exhibit to a juvenile or to knowingly sell to a juvenile an admission ticket or pass or to knowingly admit a juvenile to premises whereon there is exhibited, a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles.

Sec. 15.5-28. Misrepresentation to persons mentioned in sections 15.5-26 and 15.5-27 as to juvenile's age, etc.

(a) It shall be unlawful for any juvenile to falsely represent to any person mentioned in section 15.5-26 or 15.5-27, or to his agent, that such juvenile is eighteen (18) years of age or older, with the intent to procure any material as set forth in section 15.5-26, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation set forth in section 15.5-27.

(b) It shall be unlawful for any person to knowingly make a false representation to any person mentioned in section 15.5-26 or 15.5-27, or to his agent, that he is the parent or guardian of any juvenile, or that any juvenile is eighteen (18) years of age, with the intent to

procure any material set forth in section 15.5-26, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation set forth in section 15.5-27.

Sec. 15.5-29. Exceptions from article.

Nothing contained in this article shall be construed to apply to:

(a) The purchase, distribution, exhibition or loan of any work of art, book, magazine or other printed or manuscript material by any accredited museum, library, school or institution of higher learning.

(b) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum, school or institution of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds.

CODE OF THE COUNTY OF YORK

Chapter 16

OFFENSES—MISCELLANEOUS

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Sec. 16-1. Sunday closing law of no effect in the county.

The provisions of section 18.2-341, Code of Virginia, prohibiting work, labor or business on Sunday, shall have no force or effect within the county.

Sec. 16-1.1. Loitering.

(a) It shall be unlawful for any person to loiter in, upon or around any public place, whether or not on private property.

(b) No person shall be deemed to be loitering on private property of which he is the owner or one of the owners or tenant, or as to which property he has a lawful private right, not shared by the public generally, to conduct himself in such manner that he would be otherwise in violation of the provisions of this section.

(c) Any person who shall violate this section shall be guilty of a Class 3 misdemeanor.
Cross reference—Loitering about fire house or station, § 11-22.

Sec. 16-2. Curfew for minors—Generally.

(a) Except as otherwise provided herein, it shall be unlawful for any person under the age of eighteen (18) years to be in any public place, whether or not on private property, between the hours of 12:30 a.m. and 5:00 a.m. of the same day.

(b) The provisions of this section shall not apply to a minor accompanied by his parent, legal guardian or other adult person having the care and custody of the minor pursuant to applicable provision of law, or when the minor is upon an emergency errand or legitimate business directed by his parent, legal guardian or such other adult person having the care and custody of the minor.

(c) Any minor violating the provisions of this section shall be dealt with in accordance with the law and procedure applicable in the juvenile and domestic relations district court.

(d) Any minor who violates any of the provisions of this section may be taken into immediate custody by a police officer, without process. Such officer shall comply with the provisions of section 16.1-247, Code of Virginia.

(e) The provisions of this section shall be applicable to members of the armed forces of the United States under the age of eighteen (18) years; provided, however, that after such a minor is taken into custody, his release shall be made to his commanding officer or subordinate thereof.

Cross reference—Certain minors to be accompanied by parent or guardian at musical or entertainment festivals, § 3-51.

Sec. 16-3. Same—Parent, guardian, etc., permitting violation.

(a) It shall be unlawful and a Class 2 misdemeanor for the parent, guardian or other adult person having the care and custody of a person under the age of eighteen (18) years to knowingly permit such minor to violate the provisions of section 16-2.

(b) This section shall not apply to the parent, guardian or other adult person having the care and custody of a minor who is member of the armed forces of the United States.

Sec. 16-4. Same—Prima facie evidence in cases involving section 16-2 and 16-3.

In any court proceedings involving sections 16-2 and 16-3, the fact that the minor in question, unaccompanied by a parent, guardian or other adult person having the care and custody of such minor, is found upon a street, alley or other place mentioned in section 16-2, after 12:30 a.m. and before 5:00 a.m., shall be prima facie evidence that such minor is there unlawfully and that no reasonable excuse exists therefor and that the parent, guardian or other adult person having the care or custody of such minor knows and is permitting such minor to violate section 16-2.

Sec. 16-5. Posting material on courthouse walls or doors.

It shall be unlawful and a Class 4 misdemeanor for any person to post posters, calendars or the like on the walls or doors of the courthouse, without the express permission of the county administrator.

Sec. 16-6. Injuring, tampering with, etc., vehicles, aircraft, etc.

(a) Any person who shall, individually or in association with one or more others, willfully break, injure, tamper with or remove any part of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying such vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a Class 1 misdemeanor.

(b) Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel or locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel or locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief or injury thereto, or who, while a vehicle, aircraft, boat, vessels or locomotive or other rolling stock of a railroad, is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set such vehicle, aircraft, boat, vessel or locomotive or other rolling stock of a railroad in motion, with the intent to commit any crime, malicious mischief or injury thereto, shall be guilty of a Class 1 misdemeanor. This subsection shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(c) The provisions of this section shall not apply to a bona fide repossession of a vehicle, aircraft, boat or vessel by the holder of a lien on such vehicle, aircraft, boat or vessel, or by agents or employees of such lienholder.

Sec. 16-7. REPEALED July 20, 2010, by Ordinance No. 10-13(R)

Sec. 16-8. REPEALED February 19, 2013, by Ordinance No. 13-2

(Ord. No. O97-2, 2/19/97; Ord No. 03-16, 6/3/03; Ord. No. 11-12, 10/18/11; Ord. No. 13-2, 2/19/13)

Sec. 16-9. Sale, delivery, etc., of blackjacks, metal knucks, switchblade knives and similar weapons.

If any person shall sell or barter, or exhibit for sale or for barter, or give or furnish, or cause to be sold, bartered, given or furnished, or have in his possession, or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, brass or metal knucks, any disc of whatever

configuration having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, switchblade knife or like weapon, such person shall be guilty of a Class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace, of his intent to sell, barter, give or furnish the same.
(Ord. No. O97-2, 2/19/97)

Sec. 16-10. Sale, delivery, etc., of toy firearms discharging blank or ball charges.

(a) No person shall sell, barter, exchange, furnish or dispose of, by purchase, gift or in any other manner, any toy gun, pistol, rifle or other toy firearm, if the same shall, by means of powder or other explosive, discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor. Each sale of any of the articles hereinbefore specified to any person shall constitute a separate offense.

(b) Nothing in this section shall be construed as preventing the sale of what are commonly known as cap pistols.

Sec. 16-11. Sale or delivery of weapons to minors.

If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any person under eighteen (18) years of age, a pistol, dirk or Bowie knife, having good cause to believe him to be under eighteen (18) years of age, such person shall be guilty of a Class 1 misdemeanor.
(Ord. No. O97-2, 2/19/97)

Sec. 16-12. Causing or encouraging minors to commit misdemeanors, etc.

Any person eighteen years of age or older, including the parent of any child, who (i) willfully contributes to, encourages, or causes any act, omission, or condition which renders a child delinquent, in need of services, in need of supervision, or abused or neglected as defined in § 16.1-228, Code of Virginia, or (ii) engages in consensual sexual intercourse with a child fifteen or older not his spouse, child, or grandchild, shall be guilty of a Class 1 misdemeanor. This section shall not be construed as repealing, modifying, or in any way affecting §§18.2-18, 18.2-19, 18.2-61, 18.2-66, and 18.2-347, Code of Virginia.
(Ord. No. O97-2, 2/19/97)

Sec. 16-13. Attempt to commit misdemeanor.

Every person who attempts to commit an offense which is a misdemeanor shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the attempt, except as otherwise specifically provided.

Sec. 16-14. Obstructing justice.

(a) If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness or any law-enforcement officer in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, or law-enforcement officer, he shall be guilty of a Class 2 misdemeanor.

(b) If any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, or any law-enforcement officer, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in

any court, he shall be deemed to be guilty of a Class 1 misdemeanor.
(Ord. No. O97-2, 2/19/97)

Sec. 16-15. Reserved.

Sec. 16-16. Assault and battery.

(a) Any person who shall commit a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor. However, if a person intentionally selects the person against whom the offense is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a mandatory, minimum term of confinement of a least six months, thirty days of which shall not be suspended, in whole or in part.

(b) In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a mandatory, minimum sentence of fifteen days in jail, two days of which shall not be suspended in whole or in part. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to Code of Virginia § 18.2-308.1, the person shall serve a mandatory, minimum sentence of confinement of six months which shall not be suspended in whole or in part.

(c) "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, principal, assistant principal, guidance counselor, or school security officer, in the course and scope of his acting official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

(d) For purposes of this section, "school security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.
(Ord. No. O97-2, 2/19/97; Ord. No. 03-3, 1/21/03)

Sec. 16-17. Abusive language.

If any person shall, in the presence or hearing of another, curse or abuse such person, or use any violent abusive language to such person concerning himself or any of his relations, or otherwise use such language under circumstance reasonably calculated to provoke a breach of the peace, he shall be guilty of a Class 3 misdemeanor.

Sec. 16-18. Disorderly conduct in public places.

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

(a) In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; or

(b) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any meeting of the governing body of the County or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or

(c) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

However, the conduct prohibited under subdivision (a), (b), or (c) of this section shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title.

The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

A person violating any provision of this section shall be guilty of a Class 1 misdemeanor.
(Ord. No. O97-2, 2/19/97)

Sec. 16-19. Declaration of findings and policy.

The board of supervisors hereby finds and declares that excessive noise is a serious hazard to the public health, welfare, peace and safety, and the quality of life. It is, therefore, the policy of the county and the purpose of these sections 16-19 through 16-19.5 to prevent such excessive noise.
(Ord. No. 10-8(R-1), 1/18/11)

Sec. 16-19.1 Definitions.

As used in this article, the following words and phrases shall have the following meanings:

A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

Dwelling unit. A building or portion thereof designed or intended to be occupied as living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Motor vehicle. Every vehicle defined as a motor vehicle by § 46.2-100 of the Code of Virginia (1950), as amended.

Person. Any individual, firm, owner, sole proprietorship, partnership, limited liability company, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.

Public area. Any "public area" as defined in section 17-2 of this Code.

Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties.

Public right-of-way. Any street, avenue, boulevard, highway, sidewalk or alley platted or dedicated for use by the general public, whether maintained by a governmental entity or by a private person or entity.

Real property line. An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

Residential area. Any property zoned for residential use, whether or not exclusively.

Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.
(Ord. No. 10-8(R-1), 1/18/11)

Sec. 16-19.2 Specific prohibitions.

The following acts, or the causing or permitting thereof, among others, are unlawful :

(a) Radios, stereos and loudspeakers, television sets, musical instruments and similar sound amplification or reproduction devices. Operating, playing or permitting the operation or playing of any radio, stereo system or loudspeakers, television, compact disc player, or other sound reproduction device, or any drum, musical instrument, or similar device (other than devices described in subsection (b), below) at any time when the sound is plainly audible at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates, or within an occupied detached residential dwelling with all windows and doors closed located on property other than that from which the sound originates, or between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line or through partitions common to two (2) dwelling units within a building.

(b) Public address systems and sound trucks. Using, operating or permitting the operation of any public address system, sound truck, mobile sound vehicle or similar device amplifying sound therefrom for any purpose between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line, or at a distance of one hundred feet (100') from its source and on property other than that from which the sound originates. For purposes of this subsection, a public address system is an electronic sound amplification and distribution system with a microphone, amplifier and loudspeakers used to address an assembly of people.

(c) *Production of sound from radios, phonographs, etc., on streets*. The using, operating or permitting the playing, using or operating of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other electronic or other machine or device for the producing or reproducing of sound upon the public streets or public parking lots, unless the resultant noise or sound shall be not plainly audible a greater distance than one hundred feet (100') from the vehicle or other enclosure in which it is contained or at least one hundred feet (100') from the source thereof if not contained within any vehicle or other enclosure.

(d) *Horns, whistles, etc*. Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or in any public area, except as a warning of danger, or as a notification that a motor vehicle is being locked or unlocked, or notification that an alarm system is being enabled or disabled.

(e) *Exhaust discharges and mechanical noises*. The discharge into open air of the exhaust of any steam or diesel engine, stationary internal combustion engine, chain saw, power mower, motorboat or motor vehicle, except through a fully operational muffler or similar sound attenuation device.

(f) *Yelling, shouting, etc*. Yelling, shouting, and other vocal sounds in excess of a normal conversational level, whistling or singing, any of which occurs between the hours of 11:00 p.m. and 7:00 a.m. so as to create a sound across a residential real property line or on a public right-of-way or on any public area that is plainly audible to an occupant of a dwelling unit within a building other than an occupant of the unit from which such sound emanates, or at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates.

(g) *Schools, public buildings, places of worship, and hospitals*. The creation of any noise on the grounds of any school, court, public building, place of worship, or hospital in a manner that is plainly audible within such school, court, public building, place of worship or hospital and interferes with the operation of the institution.

(h) *Large party nuisance*. The creation of plainly audible sound between the hours of 11:00 p.m. and 7:00 a.m. that continues unabated for thirty (30) minutes or more, and emanates from a gathering of people where the gathering is not completely contained within a structure, but spills outdoors into balconies, yards, common areas, parking lots, or other outdoor spaces and is plainly audible across a property line, or through partitions common to two (2) dwelling units within a building, or at a distance of one hundred feet (100') or more from its source and on property other than that which the sound originates.

(i) *Construction*. The erection, including excavation, demolition, alteration, or repair of any building or improvement between the hours of 7:00 p.m. and 7:00 a.m., if any resulting sound is plainly audible beyond the real property line of the property on which the work is being conducted, or within any occupied dwelling unit other than the one in which the work is being performed with doors closed and windows in the position appropriate for the season, except in the case of emergency under a permit granted by the county administrator. In considering the granting, conditioning, or denial of the permit, the county administrator shall be guided by the following standards: (i) nature of the emergency; (ii) proposed extended hours of operation; (iii) duration of period of requested extended hours; (iv) character of the area surrounding the construction site; and (v) number of residential units which would be impacted by the extended hours of construction. This provision shall not apply to emergency repair work performed by a governmental agency and a public utility.

(j) *Pneumatic hammer, chain saw, etc*. The operation between the hours of 8:00 p.m. and 7:00 a.m. of any chain saw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other similar equipment that produces sound that is plainly audible beyond the real property line of the property on which the work is being performed, or within any occupied dwelling unit with doors closed and windows in the position appropriate for the season.

(k) *Refuse collection vehicle operation*. The operation of a refuse collection vehicle within one hundred feet (100') of a residence between the hours of 11:00 p.m. and 7:00 a.m.

(l) *Animals*. The keeping of any animal which shall be the source of any noise or sound which is plainly audible across a residential property line or through the partitions common to two dwelling units, or at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates and which continues for a period of thirty (30) minutes or longer.

(m) *Noise to attract attention to performances, etc*. The use of any drums or other musical instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(Ord. No. 10-8(R-1), 1/18/11; Ord. No. 13-14, 11/19/13)

Sec. 16-19.3 Prohibited noise, generally.

Maximum sound pressure levels. In addition to, and not in limitation of the specific prohibitions of Section 16-19.2, no person shall operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the following tables when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one (1) district classification, the limits of the most restrictive classification shall apply.

MAXIMUM SOUND PRESSURE LEVELS

(a) Outdoors

Receiving Property Category	Residential Property or residential portion of a multi-use property		Non-residential facility including non-residential portion of multi-use facility
Time	7 a.m. -11 p.m.	11 p.m. – 7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	55	65

(b) Indoors

Receiving Property Category	Residential Property or residential portion of a multi-use property		Non-residential facility including non-residential portion of multi-use facility
Time	7 a.m. -11 p.m.	11 p.m. – 7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	55	50	55

Measurements in multi-family structures. In a structure used as a multi-family dwelling, the measurements to determine such sound levels shall be taken from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the owner or tenant in possession and control thereof. Such measurement shall be taken at a point at least four feet (4') from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

(c) Public Areas

In addition to the prohibition in paragraph (a) and (b) above, no person shall operate or cause to be operated in or into a public area any source of sound in such a manner as to exceed the levels set forth below when measured at a distance of at least six feet (6') from such source:

Time Period	Noise Level (in decibels)
7:00 a.m. to 11:00 p.m.	65
11:00 p.m. to 7:00 a.m.	55

The provisions of this subparagraph (c) shall not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided such events are conducted pursuant to a permit or license issued by the appropriate governing official pursuant to Chapter 17 of this Code relative to the staging of such events.
(Ord. No. 10-8(R-1), 1/18/11)

Sec. 16-19.4 Testing of metering devices.

In order to implement and enforce this article effectively, the county administrator shall within a reasonable time after the effective date of this article, develop and promulgate standards and procedures for testing and validating sound level meters used in enforcement of this article.
(Ord. No. 10-8(R-1), 1/18/11)

Section 16-19.5 Exceptions.

Sections 16-19.2 and 16-19.3 shall have no application to any sound generated by any of the following:

(a) Noise or sound which customarily accompanies bona fide parades for which any necessary permits have been issued, fireworks displays conducted in compliance with applicable laws, school-related activities, sporting events, or public functions or public commemorative events sponsored or conducted by a local, state, or federal government or agency thereof.

(b) Religious services, religious events, or religious activities or expressions, including, but not limited to music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.

(c) Military activities of the Commonwealth of Virginia or of the United States of America.

(d) Radios, sirens, horns, and bells on law enforcement, fire, or other emergency response vehicles.

(e) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.

(f) Sound which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound generated by the normal operation of any air conditioning, refrigeration or heating equipment. However, as to any air conditioning, refrigeration or heating equipment found to exceed the maximum permissible sound pressure levels prescribed in section 16-19.3 above, such equipment shall not fall within this exception unless within fifteen (15) days following receipt of a written notice of violation, a written certificate is provided to the York County Sheriff, issued by a repair agent duly certified by the manufacturer of such equipment, certifying that based upon personal inspection of the equipment subsequent to the date of the notice of violation, the equipment was found to be correctly installed and operating properly.

(g) Locomotives and other railroad equipment, and aircraft.

(h) Household tools and lawnmowers and other lawn care equipment with manufacturer's recommended mufflers installed, between 7:00 a.m. and 8:00 p.m.

(i) The striking of clocks

(j) Lawful discharge of firearms

(k) Activities conducted in any gymnasium, arena, theater, amphitheater, swimming pool, stadium, rifle range, gun club or any similar sporting facility, whether any such activity occurs indoors or outdoors,

(l) Noise generated in connection with the business being conducted on property zoned IL (Limited Industrial) or IG (General Industrial), provided that all equipment or machinery generating such noise is in good repair and is being operated and maintained in accordance with the

manufacturer's recommendations and with a fully operational muffler or other noise attenuating device if a muffler or noise attenuating device is standard on such machinery or equipment.
(Ord. No. 10-8(R-1), 1/18/11)

Sec. 16-19.6 Violations

Any person who violates Sections 16-19.2 or 16-19.3 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not exceeding two hundred fifty dollars ($250.00) for the first offense, and upon any subsequent conviction within a period of twelve (12) months shall be punished by a fine not to exceed five hundred dollars ($500.00). Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
(Ord. No. 10-8(R-1), 1/18/11)

Sec. 16-20. Public profanity and drunkeness.

If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a Class 4 misdemeanor. In any area in which there is located a court-approved detoxification center a law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.
(Ord. No. O97-2, 2/19/97)

Sec. 16-21. Profanity, threats, etc., over telephone.

(a) If any person shall use obscene, vulgar, profane, lewd, lascivious or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act with the intent to coerce, intimidate or harass any person, over any telephone in this county, such person shall be guilty of a Class 1 misdemeanor.

(b) It shall be the duty, on pain of contempt of court, of each telephone company in this county to furnish immediately, in response to a subpoena issued by a circuit court, such information as it, its officers and employees, may posses which, in the opinion of the court, may aid in the apprehension of persons suspected of violating the provisions of this section.

Sec. 16-22. Adultery and fornication—Generally.

(a) Any person, being married, who voluntarily shall have sexual intercourse with any person not his or her spouse shall be deemed guilty of adultery.

(b) Any person, not being married, who voluntarily shall have sexual intercourse with any other person shall be deemed guilty of fornication.

(c) If any person commits adultery or fornication, such person shall be guilty of a Class 4 misdemeanor.

Sec. 16-23. Adultery and fornication by persons forbidden to marry.

If any person commits adultery or fornication with any person whom he is forbidden by law to marry, such person shall be guilty of a Class 1 misdemeanor; provided, however, that this section shall not be construed to apply to a person committing adultery or fornication with his daughter or granddaughter, or with her son or grandson, or her father or his mother.

Sec. 16-24. Lewd and lascivious cohabitation.

If any persons, not married to each other, lewdly and lasciviously associate and cohabit together, or whether married or not, be guilty of open and gross lewdness and lasciviousness, each of them shall be guilty of a Class 3 misdemeanor. Upon a repetition of the offense, and conviction thereof, each of them shall be guilty of a Class 1 misdemeanor.

Sec. 16-25. Prostitution—Generally.

(a) Any person who commits adultery, fornication, or offers to commit adultery, fornication and thereafter does any substantial act in furtherance thereof, shall be guilty of being a prostitute, or prostitution, which shall be punishable as a Class 1 misdemeanor.

(b) Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated above and thereafter does any substantial act in furtherance thereof shall be guilty of solicitation of prostitution and shall be guilty of a Class 1 misdemeanor.

(c) As soon as practicable following conviction of any person for violation of this section, such person shall be required to submit to testing for infection with human immunodeficiency virus. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and (iii) the transmission and prevention of infection with human immunodeficiency virus.

Tests shall be conducted to confirm any initial positive test results before any test result shall be determined to be positive for infection. The results of such test shall be confidential as provided in §32.1-36.1, Code of Virginia, and shall be disclosed to the person who is the subject of the test and to the Department of Health as required by §32.1-36, Code of Virginia. The Department shall conduct surveillance and investigation in accordance with the requirements of §32.1-39, Code of Virginia.

The results of the test shall not be admissible in any criminal proceeding related to prostitution.

The cost of the test shall be paid by the County and taxed as part of the cost of such criminal proceedings.

(Ord. No. O97-2, 2/19/97)

Sec. 16-26. Bawdy places.

(a) It shall be unlawful and a Class 1 misdemeanor for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any bawdy place. Each and every day such bawdy place shall be kept, resided in or visited shall constitute a separate offense. In a prosecution under this section, the general reputation of the place may be proved.

(b) As used in this section, the term "bawdy place" shall mean any place, within or without any building or structure, which is used or is to be used for lewdness, assignation or prostitution.

Sec. 16-27. Aiding prostitution or illicit sexual intercourse.

(a) It shall be unlawful for any person or any officer, employee or agent of any firm, association or corporation, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport, on foot or in any way, any person to a place, whether within or without any building or structure,

used or to be used for the purpose of lewdness, assignation or prostitution, or to procure or assist in procuring, for the purpose of illicit sexual intercourse or any act violative of section 18.2-361, Code of Virginia, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

Sec. 16-28. Using vehicle to promote prostitution or unlawful sexual intercourse.

It shall be unlawful and a Class 1 misdemeanor for any owner or chauffeur of any vehicle, with knowledge or reason to believe the same is to be used for such purpose, to use the same or to allow the same to be used for the purpose of prostitution or unlawful sexual intercourse, or to aid or promote such prostitution or unlawful sexual intercourse by use of any such vehicle.

Sec. 16-29. Drugs or other noxious chemical substances; inhaling or causing others to do so.

(a) It shall be unlawful for any person to deliberately smell or inhale any drugs or any other noxious chemical substances, including but not limited to, fingernail polish or model airplane glue, containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors with the intent to become intoxicated, inebriated, excited, stupefied or to dull the brain or nervous system. Any person violating the provisions of this subsection shall be guilty of a Class 1 misdemeanor.

(b) It shall be unlawful for any person, other than one duly licensed, to deliberately cause, invite or induce any person to smell or inhale any drugs or any other noxious substance or chemicals containing any ketone, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors with the intent to intoxicate, inebriate, excite, stupefy or to dull the brain or nervous system of such person. Any person violating the provisions of the subsection shall be guilty of a Class 2 misdemeanor.

Sec. 16-30. Petit larceny.

Any person who:

(a) Commits larceny from the person of another of money or other thing of value of less than five dollars ($5.00); or

(b) Commits simple larceny, not from the person of another, of goods and chattels of the value of less than two hundred dollars ($200.00), except as provided in subdivision (iii) of §18.2-95, Code of Virginia, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

(Ord. No. O97-2, 2/19/97)

Sec. 16-31. Shoplifting.

(a) Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner thereof out of the value of the goods or merchandise:

(1) Willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment, or

(2) Alters the price tag or other price marking on such goods or merchandise, or transfers

the goods from one container to another, or

(3) Counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than two hundred dollars ($200.00) shall be deemed guilty of petit larceny and, upon conviction thereof, shall be punished as provided by subsection (b) below. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

(b) Any person convicted for the first time of an offense under this section, when the value of the goods or merchandise involved in the offense is less than two hundred dollars ($200.00), shall be punished as for a Class 1 misdemeanor.

(c) Any person convicted of an offense under this section, when the value of the goods or merchandise involved in the offense is less than two hundred dollars ($200.00), and it is alleged in the warrant, indictment, or information on which such person is convicted, and admitted, or found by the jury or judge before whom such person is tried, that such person has been before convicted in the Commonwealth of Virginia or in another jurisdiction for any offense of larceny or any offense deemed or punishable as larceny, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies or a combination thereof, shall be confined in jail not less than thirty (30) days nor more than twelve (12) months.

(d) A merchant, agent or employee of the merchant, who causes the arrest or detention of any person pursuant to the provisions of this section or section 16-30 shall not be held civilly liable for unlawful detention, if such detention does not exceed one (1) hour, slander, malicious prosecution, false imprisonment, false arrest or assault and battery of the person so arrested, whether such arrest or detention takes place on the premises or the merchant or after close pursuit from such premises such merchant, or the merchant's agent or employee; provided that, in causing the arrest or detention of such person, the merchant, agent or employee of the merchant, had, at the time of such arrest or detention, probable cause to believe that the person had shoplifted or committed willful concealment of goods or merchandise. The activation of an electronic article surveillance device as a result of a person exiting the premises or an area within the premises of a merchant where an electronic article surveillance device is located shall constitute probable cause for the detention of such person by such merchant, his agent or employee, provided such person is detained only in a reasonable manner and only for such time as is necessary for an inquiry into the circumstances surrounding the activation of the device, and provided that clear and visible notice is posted at each exit and location within the premises where such a device is located indicating the presence of an anti-shoplifting or inventory control device. For the purposes of this subsection, agents of the merchant shall include attendants at any parking lot owned or leased by the merchant, or generally used by customers of the merchant through any contract or agreement between the owner of the parking lot and the merchant.

(e) Any person who has been convicted of violating the provisions of this section shall be civilly liable to the owner for the retail value of any goods and merchandise illegally converted and not recovered by the owner, and for all costs incurred in prosecuting such persons. Such costs shall be limited to actual expenses, including the base wage of one employee acting as a witness for the County and suit costs. Provided, however, the total amount of allowable costs granted hereunder shall not exceed $250, excluding the retail value of the goods and merchandise.

(Ord. No. O97-2, 2/19/97)

Sec. 16-32. Entering or remaining on property of another after having been forbidden to do so.

If any person shall, without authority of law, go upon or remain upon the lands, buildings or premises

of another, or any part, portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after been forbidden to do so by a sign or signs posted by such persons or by the holder of any easement of other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or part, portion or area thereof at a place or places where it or they may be reasonably seen, he shall be guilty of a Class 1 misdemeanor.

Sec. 16-33. Peeping or spying into structure occupied as a dwelling.

If any person shall enter upon the property of another, in the nighttime, and secretly or furtively peeps, spies, or attempts to peep or spy into or through a window, door or other aperture of any building structure or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure be permanently situated or transportable and whether or not such occupancy be permanent or temporary, such person shall be guilty of a Class 1 misdemeanor.
(Ord. No. O97-2, 2/19/97)

Sec. 16-34. Abandoned or discarded refrigerators and other airtight containers.

(a) Is shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two (2) cubic feet of clear space which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed or is being used for display purposes by any retail or wholesale merchant or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any person violating any of the provisions of this section shall be deemed guilty of a Class 3 misdemeanor.

Sec. 16-35. Pharmacist required for certain businesses selling proprietary medicines; penalty.

(a) The owner or proprietor of any establishment which has during the preceding calendar month gross sales of proprietary medicines, as defined by the Code of Virginia, nonprescription drugs, and over-the-counter drugs exceeding twenty-five percent (25%) of total gross sales shall employ a registered pharmacist on the premises during business hours.

(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor.
Cross reference—License and business regulations generally, Ch. 14; “gross receipts” defined, § 14-1.

Sec. 16-36. Mosquito control; breeding places declared public nuisance.

(a) Collections of standing or flowing water in which mosquitoes breed or are likely to breed are hereby declared to be a nuisance and detrimental to the public health. Collections of water may include, but shall not be limited to, water contained in vehicle tires, trash piles, drainage ditches, impoundments or ruts caused by heavy equipment.

(b) It shall be unlawful for any owner, occupant or person in charge of any property within the county to have, keep, maintain, cause or permit any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as to

effectively prevent such breeding. It shall be unlawful for any person to place or cause to

be placed or to allow to remain in or about any drain, storm sewer, mosquito control ditch or other construction maintained by the county any material or substance which is likely to obstruct, stop or interfere with the natural flow of water.

(c) The county administrator or his representative may investigate conditions existing on any real property in the county at any time; provided that entry shall not be made on any such property prior to a finding of violation without the consent of the owner or occupant or pursuant to proper legal process unless entry is pursuant to a public easement of right-of-way. Upon a determination that conditions exist on any such property in violation of paragraph (b), written notice shall be provided to the owner of such property, and [or] to the person primarily responsible if different from the owner, stating the facts which constitute a violation of paragraph (b) and directing the owner [or such person responsible for the property] to take such action as may be necessary to rectify such conditions within ten (10) days of the date of the notice and, if the owner shall fail to comply with the terms of the notice, then the county administrator or his representative shall cause to be done such work as may be necessary to abate the offending condition by agents or employees of the county.

(d) All expenses resulting from the correction by the agents or employees of the county of a violation of this section shall be billed to the owner and shall, unless paid in full within fifteen (15) days, be certified by the county administrator to the county treasurer who shall collect such amount in the same manner as taxes are collected; and all charges not so collected shall constitute a lien against such property; provided, however, that no such expenses shall be charged to the owner if in the opinion of the county administrator the offending condition is the direct result of acts or omissions of tidal waters or the Virginia Department of Transportation, the county or any other governmental agency.

(e) Any notice required by this section shall be conclusively deemed to have been served when mailed by certified or registered mail to the current owner and address as shown on the land records of the commissioner of the revenue of the county.

(f) Nothing in this section shall be deemed to prevent the county, with the consent of the owner, from using its employees to correct offending conditions on private property without charge to the property owner.

(g) A violation of any of the provisions of this section shall constitute a Class 4 misdemeanor.

Sec. 16-37. Discharge of high-powered rifles prohibited.

(a) *Prohibition; exceptions.* No person shall discharge at any location in the county any rifle of a caliber larger than .22 rimfire, except for the following:

(1) Law enforcement officers, animal wardens and game wardens in the line of duty;

(2) Military personnel in the line of duty;

(3) Persons discharging a rifle on firing ranges operating in conformance with the county's zoning regulations;

(4) Persons discharging a rifle in conjunction with and as authorized by a permit to hunt to control the deer population pursuant to Code of Virginia section 29.1-529; and

(5) Persons discharging a rifle in lawful defense of property or persons or to kill a dangerous or destructive animal.

(b) *Penalty for violation.* Any person violating this section shall be guilty of a Class 2 misdemeanor.
(Ord. No. 09-8(R-3), 6/15/10)

Sec. 16-38. Sports shooting ranges; range safety; logs.

(a) No sports shooting range or combination of ranges shall be used at any time unless a range safety officer, as designated by the owner or operator of such range, is present on the range. Such officers shall have the duty and responsibility of enforcing the owner or operator's rules and regulations for the safe use of such range.

(b) A log shall be maintained on the premises of every sports shooting range of the name of the range safety officer present on the range and the hours during which the safety officer was present. The range safety officer shall ensure that every person who uses a range is identified in a log to be kept for such purpose; the manufacturer, model, and caliber of each firearm used by each such person; and the time during which the firearm was used. Such logs shall be maintained for a period of at least two (2) months after the latest entry therein and shall be made available for review during reasonable hours at the request of law enforcement officers or the county administrator.

(c) For purposes of this section, a "sports shooting range" shall mean each outdoor area designed and designated for the use of rifles, shot guns, pistols, silhouettes, skeet, trap, black powder, or any other similar sports shooting.

Sec. 16-39. Bicycle Helmets.

Every person fourteen years of age or younger shall wear a protective helmet that meets the standards promulgated by the American National Standards Institute or the Snell Memorial Foundation whenever riding or being carried on a bicycle on any highway as defined in § 46.2-100, Code of Virginia, sidewalk or public bicycle path.

Violation of this ordinance shall be punishable by a fine of twenty-five dollars ($25.00). However, such fine shall be suspended (i) for first-time violators and (ii) for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by this section.

Sec. 16-40. Personal watercraft; skis and similar devices.

(a) It shall be unlawful for any person to operate a personal watercraft, as defined in Section 29.1-744.1, Code of Virginia, within fifty (50) feet from a shore or dock, or within one hundred (100) feet of swimmers. Nothing in this section shall be construed to prohibit access to and from waters where operation is not restricted.

(b) *Reckless operation or manipulation of watercraft, skis, etc.* No person shall operate any watercraft, or manipulate any ski or skis, surfboard, aquaplane, or similar device in or on any creek or cove or any other of the waters within the territorial limits of the county in a reckless or negligent manner or at a speed such as to endanger the life or limb of any person or to endanger, damage or destroy the property, whether real or personal, of any person.

(c) *Operating or manipulating watercraft, skis, etc, while intoxicated or under influence of drugs.* No person shall operate any watercraft, or manipulate any ski or skis, surfboard, aquaplane or similar device in or on any of the waters within the territorial limits of the county while under the influence of alcohol or while under the influence of any other self administered intoxicant or drug of whatsoever nature.

(d) A violation of this section shall be punishable by a fine of up to two hundred and fifty dollars ($250.00).

Sec. 16-41. Graffiti

(a) Definition. "Graffiti" shall mean the unauthorized application by any means of any writing, painting, drawing, etching, scratching or marking of an inscription, word, mark, figure or design of any type on any public or private building or other real estate or personal property owned, operated or maintained by a governmental entity or agency or instrumentality thereof or by any private person, firm, or corporation.

(b) Graffiti prohibited; criminal penalty.

(1) It shall be unlawful for any person to willfully or maliciously deface or damage by application of graffiti any public buildings, facilities or other property, or any private buildings, facilities or other property. Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor. The punishment for any such violation in which the defacement is (i) more than 20 feet off the ground, (ii) on a railroad or highway overpass, or (iii) committed for the benefit of, at the direction of, or in association with any criminal street gang, as that term is defined by Code of Virginia § 18.2-46.1, shall include a mandatory minimum fine of five hundred dollars ($500.00).

(2) Upon a finding of guilt in any case tried before the court without a jury, in the event the violation constitutes a first offense which results in property damage or loss, the court, without entering a judgment of guilt, upon motion of the defendant, may defer further proceedings and place the defendant on probation pending completion of a plan of community service work. If the defendant fails or refuses to complete the community service as ordered by the court, the court may make final disposition of the case and proceed as otherwise provided. If the community service work is completed as the court prescribes, the court may discharge the defendant and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying the ordinance in subsequent proceedings.

(3) Any community service ordered by the court shall, to the extent feasible, include the repair, restoration or replacement of any damage or defacement to property within the county and may include clean-up, beautification, landscaping or other appropriate community service within the county. The county administrator shall supervise the performance of any community service work required and to report thereon to the court imposing such requirement. At or before the time of sentencing under the ordinance, the court shall receive and consider any plan for making restitution or performing community service submitted by defendant. The court shall also receive and consider the recommendations of the court's supervisor of community services concerning the plan.

(4) Notwithstanding any other provision of law, no person convicted of a violation of this ordinance shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or is compelled to perform community services, or both in accordance with Code of Virginia § 19.2-305.1, as it may be amended from time to time.

(c) Parental liability for cost of graffiti. In the event graffiti is applied to any public property by a minor who is living with either or both parents or a legal guardian, the county may institute an action and recover from the parents of the minor, or either of them, or from the legal guardian the costs for damages suffered by reason of the willful or malicious destruction of, or damage to, public property by the minor. The action by the county shall be subject to any limitation of the amount of recovery set forth in Code of Virginia § 8.01-43 or other applicable state law.

(d) Graffiti declared a nuisance. The existence of graffiti within the county in violation of this section is expressly declared a public nuisance, and is subject to the removal and abatement procedures

specified in this section.

(e) Removal of graffiti.

(1) The county administrator is authorized to undertake or contract for the removal or repair of the defacement by the application of graffiti of any public building, wall, fence or other structure or any private building, wall, fence or other structure where such defacement is visible from any public right-of-way.

(2) If the defacement occurs on a public or private building, wall, fence or other structure located on an unoccupied property and the county, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions set out below, the actual cost or expense incurred by the county shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes are collected.

a. Prior to such removal of graffiti from private property, the county administrator shall issue to the property owner, by certified mail, return receipt requested, sent to the last address listed for the owner in county property assessment records, a notice which states: the street address and legal description of the property; that the property has been determined by the county to constitute a graffiti nuisance; that the owner must take corrective action to abate the nuisance created by such graffiti within fifteen (15) days of the date of the owner's receipt of the notice or refusal of the owner to receive notice; and that if the graffiti is not removed within the 15-day period, the county will begin removal procedures, the cost of which shall by charged to the property owner, or may institute a legal action to require the property owner to remove or obscure the graffiti. Where the property owner fails to abate the nuisance within fifteen (15) days after receipt of the notice or refusal of the owner to receive notice, the county administrator is authorized to undertake efforts forthwith to remove or obscure the graffiti.

b. Before entering upon private property for the purpose of graffiti removal, the county shall attempt to obtain the consent of the property owner, occupant or other responsible party.

c. In the event no owner or occupant or person responsible for the graffiti can be found to whom to direct the notice provided for in this subsection, the county, after giving fifteen (15) days notice in a newspaper having general circulation in the county, may proceed to remove or obscure the graffiti and charge the property owner for costs therefor as provided in (g) below.

(3) Where a structure defaced by graffiti is owned by a public entity other than the county, the removal of the graffiti by the county is authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the structure.

(4) In addition to the foregoing, the county administrator is authorized to institute appropriate legal action on behalf of the county, including but not limited to actions pursuant to Code of Virginia section 15.2-900, to compel the owner or owners of the subject property to abate or remove the graffiti at the owner's own cost.

(f) Emergency removal of graffiti. If the county administrator determines that any graffiti is an immediate danger to public health, safety or welfare, then forty-eight (48) hours after the later of (1) mailing notice to the property owner or other responsible party, as provided above and (2) posting notice in a conspicuous place on the property, the county may remove or cause the graffiti to be removed. The county may bring an action against the property owner or other responsible party to recover the necessary costs reasonably required to remove or obscure the graffiti.

(g) Assessment of costs against property owner for removal of graffiti.

(1) If the county undertakes corrective action to remove graffiti from private property after complying with the notice provisions of subsection (e)(2) above, the total cost for such removal and related repairs shall be charge-able to and paid by the property owner, and may be collected as a special assessment against the respective lot or parcel of land to which it relates in the manner in which county taxes and levies are collected.

(2) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as such liens. The county may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(3) The court may order any person convicted of unlawfully defacing any property described in subsection (e) to pay full or partial restitution to the county for costs incurred by the county in removing or repairing the defacement. An order of restitution pursuant to this section shall be docketed as provided in Code of Virginia section 8.01-446 when so ordered by the court or upon written request of the county and may be enforced by the county in the same manner as a judgment in a civil action.

(h) Nothing herein shall be deemed a limitation on the rights of the county to seek and enforce the removal or obscuration of graffiti by any other means or remedies available at law or equity.

(i) Severability. If any part, subsection, or sentence of this section is for any reason determined by a court of law to be unconstitutional or invalid, such decision shall not affect the remaining portions of this section.

(Ord. No. 01-16(R), 9/4/01; Ord. No. 05-15(R), 6/21/05; Ord. No. 09-14, 8/18/09)

Section 16-42. “No Wake” regulatory markers on waterways.

(a) As used in this section, the following terms shall have the meanings listed below:

"*Motorboat*" means any vessel propelled by machinery whether or not the machinery is the principal source of propulsion.

"*No wake*" means operation of a motorboat at the slowest possible speed required to maintain steerage and headway.

"*Operate*" means to navigate or otherwise control the movement of a motorboat or a vessel.

"*Personal watercraft*" means a motorboat less than sixteen feet in length which uses an inboard motor powering a jet pump, as its primary motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside, the vessel.

"*Vessel*" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(b) No person shall operate a motorboat or vessel, which shall include personal watercraft, at such a speed as to create a wake, swell or displacement wave in and on any waterway in York County that has been designated by a “no wake” buoy or other marker pursuant to the authority provided

under Section 29.1-744 of the Code of Virginia:

(c) Any person who desires to place "no wake" buoys or other markers relating to safe and efficient operation of vessels shall apply to the county administrator who shall prepare the material necessary for the request to be formally considered and acted on by the board of supervisors. The applicant shall be responsible for paying the costs of a legal advertisement to be published at least 14 days prior to the board of supervisors' consideration of the request. Subsequent to the board of supervisors' action, the county administrator shall forward the request, along with documentation of the board's action, to the director of the Virginia Department of Game and Inland Fisheries who will, within thirty (30) days, approve, disapprove or approve with modifications the placement and type of "no wake" marker to be used. As used in this and the following subsection, the term "person" or "applicant" may include the board of supervisors acting on its own initiative.

(d) Upon authorization by VDGIF, the applicant shall place and maintain the approved regulatory marker(s), at the expense of the applicant. Any marker or buoy which is not in conformance with the VDGIF regulations shall be removed.

(e) All law enforcement officers may enforce the proper observance by watercraft operators of any marker installed under this article. Violations shall constitute a class 4 misdemeanor.

(Ord. No. 07-11, 6/19/07)

CODE OF THE COUNTY OF YORK

Chapter 17

PUBLIC AREAS*

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ARTICLE I. IN GENERAL

Sec. 17-1. Title; purpose; applicability; severability.

(a) This chapter shall be known as "The York County Ordinance Regulating Conduct in the Public Areas of York County." It may be cited as the "Public Areas Ordinance."

(b) The purpose of this chapter is to provide rules and regulations for the use of, and conduct in, the public areas of York County, and thereby to secure and promote the health, safety and general welfare of all persons while within the public areas of the county.

(c) The provisions of this chapter shall apply in all public areas of the county, unless otherwise provided; however, that the provisions of this chapter requiring permits shall not apply to the following uses of public school property:

(1) Curricular and extracurricular activities approved by the York County School Board;

(2) Activities using school property by written permit of the York County School Board, or of the county for those public school facilities that the county, by agreement with the school board, may have the responsibility for scheduling the use thereof, unless otherwise provided by the terms of that permit;

(3) Activities of parent organizations such as the PTA, PTO, and boosters, which provide support for county schools, and which are formally acknowledged by the school board.

(d) If any part, section, subsection, sentence, clause or phrase of this chapter is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter.

Sec. 17-2. Definitions.

For the purpose of this chapter, certain words and terms are defined as follows: words used in the present tense include the future; words in the singular number include the plural and the plural the singular, unless the context indicates to the contrary.

Appropriate governing authority. In the case of rules and regulations governing school grounds, the county school board and in the case of rules and regulations governing other public areas of the county, as hereinafter defined, shall mean the county board of supervisors.

Appropriate governing official. In the case of rules and regulations governing school grounds, the county superintendent of schools or his designee(s), and in the case of rules and regulations governing other public areas of the county, as hereinafter defined, shall mean the county administrator, or his designee(s).

Electric personal assistive mobility device. A self-balancing two-wheeled (non-tandem) device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less.

Motor vehicle. Any motorized conveyance with one or more wheels used as a means to carry or transport someone or something. This term shall include, without limitation, automobiles, trucks, motorcycles, go-carts, mopeds, mini-bikes and motorized trail bikes, but not an electric personal assistive mobility device as defined herein.

Person. Any person, partnership, association, corporation, company or organization of any kind.

Public area. The grounds of any county-owned property, including, without limitation, any park, beach, public boat landing, vacant open land, public parking areas, the grounds of county-owned buildings, the county library, and the courthouse, or any other area designed or used, whether solely or partially, for activities under the authority of the county, and also any of the public school grounds of the county and the area commonly known as the Yorktown Waterfront.

Recreational shelter. Any tent, canopy, screen room, tarpaulin, sleeping bag or any other nonvehicular device designated to be portable and designed or used for the temporary protection of human beings or tangible personal property from the weather, or the temporary preservation of the privacy of persons or property.

Recreational vehicle. Every device equipped with one or more wheels, whether or not self-propelled, designed or used for transporting persons or property upon the public highways for or in connection with recreation or pleasure, as distinguished from mere transportation, except that it shall not include bicycles or other vehicles designed to be moved solely by human power. The term shall include, without limitation, motor homes, travel trailers, pickup campers, tent trailers, boats, boat trailers, and any device designed or used primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place or eating place, temporarily or permanently.

Sewage. All human body waste, treated or untreated.

Sound level meter. An instrument, including a microphone, an amplifier, an output meter and frequency-weighing networks for the measurement of sound levels, which meets or exceeds the pertinent requirements in American National Standards Institute specifications for Type II sound level meters.

Watercraft. Any contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion.
(Ord. No. 12-7, 5/15/12)

Sec. 17-3. Enforcement of chapter.

(a) *Ejectment authorized; authority to eject.* The appropriate governing official shall have the authority to eject or cause to have ejected from a public area any person violating any provision of this chapter.

(b) *Authority to promulgate rules and regulations.* The appropriate governing official shall be authorized to promulgate reasonable rules and regulations for the use of specific public areas that are in addition to the provisions of this chapter and to post signs advising users of the same. Any willful violation of such rules or regulations shall constitute a violation of this chapter.

Sec. 17-4. Penalties.

(a) *Violations.* Unless otherwise provided, any person violating any provision of this chapter shall be guilty of a Class 4 misdemeanor, and upon conviction thereof shall be punished in the manner provided by general law.

(b) *Separate offenses.* Each separate act on the part of the person violating this chapter shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall be deemed to constitute a separate offense.

Secs. 17-5—17-14. Reserved.

ARTICLE II. RECREATIONAL ACTIVITIES

Sec. 17-15. Bathing and swimming.

(a) *Designated bathing and swimming areas.* No person shall swim, bathe or wade in any waters or waterways in or adjacent to any public area, except in such waters and at such places as are designated therefor and in compliance with such regulations as are herein set forth or may be hereafter adopted.

(b) *Swimming prohibited.* No person shall go in or on any waters or place customarily designated for the purpose of swimming or bathing, or congregate there, when such activity is prohibited by the appropriate governing official.

(c) *Tents and recreational shelters on beach.* No person shall erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind.

(d) *Changing of bathing attire.* No person shall dress or undress, except outer wraps, on any beach, or in any vehicle, or other place, except in such bathing houses or structures as may be provided for that purpose.

(e) *Glass containers.* No person shall bring glass containers onto any beach or into any public swimming area.

(f) *Games and recreational activities on beaches.* No person shall engage in the playing of any games or the use of any object when it will endanger the health and safety of others on a beach, including, without limitation, the throwing, batting or catching of a baseball, football, softball, volleyball or frisbee.

(g) *Flotation devices.* The appropriate governing officials may prohibit the use of flotation devices within designated swimming areas by the posting of appropriate signs and/or through verbal direction when it would be dangerous or otherwise inadvisable.

(h) *Surfboards.* The use of surfboards and wind surfers and similar devices is prohibited within the limits of any designated swimming areas.

(i) *Lifeguard equipment.* No person shall climb upon, stand on, or tamper with or handle the equipment used by the lifeguards.

(j) *Lifeguard orders.* No person shall disobey any orders, directions, whistles or other signals used by a lifeguard or other appropriate governing official.

Sec. 17-16. Boating.

(a) *Restriction from protected swimming areas.* No person shall bring into or operate any watercraft upon any waters designated as a public swimming or bathing area, unless during a sailing regatta or other activity sponsored or authorized in writing by the appropriate governing official.

(b) *Protection of markers.* No person shall tie or secure any watercraft to a marker or piling used to designate a protected swimming or bathing area.

(c) *Berthing or securing watercraft.* No person shall tie or secure or berth any commercial watercraft to a public wharf, dock, pier or beach without a permit. The appropriate governing official may also prohibit noncommercial watercraft from being tied, secured or berthed at a public wharf, dock, pier or beach by posting appropriate signs.

(d) *Water-skiing or using personal watercraft.* Water-skiing or using personal watercraft, as such term is defined in section 29.1-744.1, Code of Virginia, within fifty feet (50') of boat launching areas, piers, cofferdams, docks, mooring areas, or within one hundred (100) feet of designated swimming areas is prohibited.

(e) *Authority to post signs.* The appropriate governing official is hereby authorized to post or cause to be posted such signs or buoys as he shall deem appropriate under this section, providing the placement thereof is approved by the state commission of game and inland fisheries pursuant to section 29.1-744, Code of Virginia.

Sec. 17-17. Fishing/crabbing.

(a) *State fishing regulations.* Unless further restricted herein or by special regulations, fishing shall be in accordance with the laws and regulations of the state and such laws and regulations which are now or may hereafter be in effect are hereby made a part of these regulations.

(b) *Digging for bait.* Digging for bait in public areas is prohibited.

(c) *No fishing/crabbing areas established.* Fishing from within one hundred feet (100') of any designated swimming area is prohibited. Fishing or crabbing from or within one hundred feet (100') of public boat docks, piers or bridges may be prohibited by the appropriate governing official by the posting of appropriate signs.

(d) *Commercial freshwater fishing.* Fishing in fresh waters for merchandise or profit is prohibited.

Sec. 17-18. Picnicking activities.

(a) *Regulations of picnic areas.* The appropriate governing official shall have the authority to regulate the activities in picnic areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any verbal directions given to achieve this end by the appropriate governing official.

(b) *Availability of picnic facilities.* Picnic facilities in public areas shall be available on a "first come, first served," basis except when reserved through permit issued by the appropriate governing official.

(c) *Duty of picnicker.* No person shall leave a picnic area before the fire is completely extinguished and before all trash including boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then all refuse and trash shall be carried away from the picnic areas by the picnicker to be properly disposed of elsewhere.

Sec. 17-19. Camping.

(a) *Designating camping locations.* Camping and/or erecting or occupying any tent or recreational shelter is permitted only at designated locations and only under permit issued by the appropriate governing official. Camping in a designated camping area within twenty-five feet (25') of any water hydrant, main road or well-defined watercourse is prohibited.

(b) *Length of camping visits.* The appropriate governing official may establish limitations on the length of time persons may camp within a park area, either in a single period or in combined separate periods.

(c) *Disturbing ground elevation for camping.* The digging or leveling of the ground at any campsite is prohibited except with permission of the appropriate governing official, as described (including limitations) in a written permit.

(d) *Gathering of firewood.* The gathering of firewood for use as fuel in campgrounds or picnic areas shall be limited to gathering dead material on the ground.

(e) *Evening quiet hours.* Quiet shall be maintained in all camping grounds between the hours of 10:00 p.m. and 6:00 a.m., unless an exception is provided in written permit issued by the appropriate governing official.

(f) *Duty for cleanup.* Camping equipment must be completely removed and the site cleaned before departure.

Sec. 17-20. Potentially dangerous recreational games and activities; confined to designated areas.

(a) No person shall take part in activities involving thrown or otherwise propelled objects such as balls, golf balls, stones, frisbees, arrows, javelins or other recreational equipment except in areas set apart for such forms of recreation, or where such activities will not interfere with the safety, activities and enjoyment of others. This prohibition shall be effective irrespective of the order of arrival of those using general public areas which are not designed to accommodate specific types of recreational activities.

(b) No person shall fly or control from a public area any type of airborne equipment, including, but not limited to, model airplanes (radio- and wire-controlled) and hot air balloons, without a permit from the appropriate governing official.

Sec. 17-21. Roller skates and skateboards; use prohibited in designated areas.

No person shall use roller skates, skateboards or roller blades on outdoor tennis courts, tracks or sidewalks immediately adjacent to public school buildings. The use of roller skates, skateboards and roller blades may be restricted in other designated locations by the appropriate governing official by the posting of appropriate signs or through verbal instruction given by the appropriate governing official.

Sec. 17-22. Horseback riding; activities regulated.

No person shall ride a horse in a public area except on designated bridle trails and areas, except by permit issued by the appropriate governing official. Horses shall not be allowed to graze or go unattended in public areas.

Sec. 17-23. Fires.

(a) *Location fires permitted.* The kindling of any fire is permitted only in designated camping and picnicking grounds when the fire is confined in a fireplace provided for the use of visitors; or in grills; or in locations marked by the appropriate governing official; or in other locations of the public areas when a written permit has been secured from the appropriate governing official; or in stoves or lanterns using gasoline, propane, butane gas or similar fuels. All such fires shall conform with the requirements of section F-301.1, "Open Burning, Virginia Fire Prevention Code. Any fire other than a recreational fire, such as open burning for silvicultural or range or wildlife management practice, prevention or control of disease or pests, heating for warmth of out-workers, or bonfires, also requires a permit from the county fire official, as required by section F-301.1, Virginia Fire Prevention Code.

(b) *Fires regulated.* Fires must be kindled in such manner that no tree, shrub, grass or other flammable or combustible matter not being used for fuel will be set on fire or caused to be set on fire. In addition, the following rules and regulations shall be followed:

(1) When no longer needed, the fire shall be completely extinguished;

(2) Leaving a fire unattended is prohibited.

The kindling of fires may be further regulated or prohibited by the appropriate governing official by posted signs when a fire hazard makes such action necessary.

(c) *Smoking.* Disposing of a lighted cigarette, cigar, pipe heel, match or other burning material in a public area is prohibited. Additionally, the appropriate governing official, during such periods of time as he may prescribe, may prohibit smoking on any lands, including on roads and trails, by the posting of appropriate signs.

Sec. 17-24. Operation of personal assistive mobility devices.

(a) *In general*. Personal Assistive Mobility Devices may be operated on sidewalks, walkways, multi-use trails, driveways, and parking lots within public areas subject to this chapter unless such operations are specifically limited or prohibited as provided in subsection (c) below, Such devices shall not be operated on athletic fields or courts, docks and piers, or in marked, signed or otherwise identified environmentally sensitive areas.

(b) *Operations*. Persons operating a personal assistive mobility device shall observe the following safety procedures and precautions:

1. Operators must yield the right-of-way to any pedestrian on a sidewalk, walkway, multi-use path or other pedestrian circulation area and must give an audible signal when overtaking or passing pedestrians;

2. When using a multi-use pedestrian/bicycle trail, operators shall not ride more than two abreast and shall move into single file when approaching or being overtaken by cyclists.

3. Operators shall be prohibited from wearing earphones on or in both ears.

4. When operated on driveways, within parking lots, or on any other surfaces where motor vehicles are permitted to operate, the operator of the personal assistive mobility device shall observe all regulations and signage applicable to the operation of motor vehicles as set forth in Section 17-88 of this Chapter.

(c) *Restrictions or prohibitions*. The appropriate governing official may establish limitations as to the days of the week or hours of the day that such devices may be operated on specific walkways or paths, or may establish complete prohibitions of operations on certain specific walkways or paths when such restrictions are deemed necessary due to safety concerns or property maintenance issues. Such restrictions shall be evidenced by the posting of appropriate signs.

(Ord. No. 12-7, 5/15/12)

Secs. 17-25—17-34. Reserved.

ARTICLE III. PUBLIC AREA PROPERTY USE AND SANITATION REGULATIONS

Sec. 17-35. Preservation of natural resources and public buildings and property.

(a) *Care of natural resources and public property.* The possession, destruction, injury, defacement, removal or disturbance in any manner of any building, sign, equipment, monument, statue, marker or other structure, or of any animal or plant matter and direct or indirect products thereof, including, but not limited to, wood, bulb or annual flowers, egg, nest or nesting site, or of any soil, rock, fossil, mineral formation, phenomenon of crystallization, artifact, relic, historic or prehistoric feature, or of any other public property of any kind, is prohibited, except as otherwise provided in this section or by special permit. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(b) *Collection of natural products.* Gathering or collecting for personal use of reasonable quantities of natural products of a renewable nature, including, but not limited to perennial and wild flowers including buttercups, daisies and violets, shells, fruits, berries, driftwood and marine deposits of natural origin, is permitted; provided, however, that gathering or collecting the Yorktown onion shall be prohibited. The gathering or collecting of such products for the purpose of sale is prohibited. In addition, the gathering or collecting of small quantities of pebbles or small rocks by hand for personal use is permitted. The collection of such objects for the purpose of sale is prohibited.

(c) *Scientific specimens.* Unless specifically permitted by other regulations in this chapter, or in special regulations, the collection of plants, rocks, minerals, animal life or other natural objects is permitted only in accordance with written permits obtained in advance from the appropriate governing official. No permits will be issued to individuals or associations to collect specimens for personal use, but only to persons officially representing reputable scientific or educational institutions in procuring specimens for research group study or museum display.

(d) *Firewood cutting.* The appropriate governing official may issue a permit authorizing patrons to cut and remove firewood from public areas, provided that the appropriate governing official deems such wood cutting to be beneficial for the development and improvement of public areas, and further provided that following conditions are met by participants of a firewood cutting program;

(1) Participants shall secure a permit from the appropriate governing official prior to obtaining firewood;

(2) Specific rules and regulations governing the safe and organized administration of this program shall be set by the appropriate governing official in writing as a permit condition;

(3) All fire wood shall be for personal use and not for resale;

(4) Participants shall sign a liability release form as approved by the appropriate governing authority prior to obtaining firewood.

(e) *Metal-detecting devices.* Except as provided below, the possession or use of any mineral or metal-detecting device is prohibited in any county park or public area; provided, however, that possession of such a device within a motor vehicle is permitted if the device is broken down or packed in such a way as to prevent its use while in the public areas. The following shall be exempt from the prohibitions of this section:

(1) Fathometers, radar equipment and electronic equipment used primarily for navigation and safe operation of boats and aircraft; and

(2) Mineral or metal-detecting devices used in pursuit of authorized activities under permit issued by the appropriate governing official.

(3) Metal detectors when used on the sand beach of the Yorktown Waterfront, except however portions of the beach owned by the National Park Service, and provided further that disturbance of any of the vegetated dunes shall be prohibited.

(f) *Climbing.* No person shall climb, walk, stand or sit upon monuments, vases, fountains or upon any other property not designated or customarily used for such purposes.

(Ord. No. 12-7, 5/15/12)

Sec. 17-36. Pollution of public waters.

No person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, water supply, pond, lake, watershed, stream, river, bay or other body of water in or adjacent to any public area or any tributary, stream, storm sewer or drain flowing into such waters any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters.

Sec. 17-37. Refuse and trash.

(a) *Disposal.* No person shall have brought in or shall dump, deposit or leave in any public areas any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any public area, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the public area by the person responsible for its presence.

(b) *Refuse from trailer and recreational vehicles.* Draining or dumping refuse or wastes from any trailer, recreational vehicle or other vehicle except in places or receptacles provided for such use is prohibited.

(c) *Refuse from fishing activities.* Fish entrails or other inedible parts of fish may be disposed of into salt waters, except within two hundred feet (200') of boat docks or swimming areas, but shall not be thrown into fresh waters or onto public area lands.

(d) *Commercial refuse disposal.* Using refuse containers for dumping household or commercial garbage or trash brought as such from private property is prohibited.

Sec. 17-38. Sewage disposal and care of comfort stations.

Depositing any body waste in or on any portion of any comfort station or other public structure except into fixtures provided for that purpose is prohibited. Urinating or defecating other than at the places provided therefor is prohibited, except in wilderness or other remote areas. Placing any bottle, can, cloth, rag, metal, wood or stone substances in any of the plumbing fixtures in such station or structure is prohibited. All comfort stations shall be used in a clean, sanitary and orderly manner.

Sec. 17-39. Possession of wild animals.

(a) No person shall bring into or have in his possession or under his control in any public area of the county any live wild animal or bird.

(b) For the purposes of this section, "wild animal or bird" shall be defined as any monkey, raccoon, skunk, fox, snake or other reptile, leopard, panther, tiger, lion, lynx, or any other animal or bird of prey which can normally be found in the wild state.

Secs. 17-40—17-49. Reserved.

ARTICLE IV. PERSONAL AND COMMERCIAL ACTIVITIES

DIVISION 1. REGULATIONS OF BEHAVIOR OF INDIVIDUALS*

Sec. 17-50. Intoxicating beverages.

(a) *Consumption of alcoholic beverages prohibited.* No person shall consume any alcoholic beverage while in a public area, unless such beverage is served at a facility or event for which such consumption of alcoholic beverages has been approved by the appropriate governing authority, and all alcoholic beverage control laws have been complied with.

(b) *Possession of alcoholic beverages prohibited.* No person shall possess an open or previously opened container containing any alcoholic beverage while in a public area, unless such container has been served at a facility or event for which such consumption of alcoholic beverages has been approved by the appropriate governing authority, and all alcoholic beverage control laws have been complied with.

Sec. 17-51. Controlled substances.

(a) *Consumption prohibited.* No person shall consume any controlled substance, as defined by the Code of Virginia, while in a public area, unless such consumption is expressly authorized by law.

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*__Cross reference—__Obscenity, Ch. 15.5; offenses and miscellaneous provisions, Ch. 16.

(b) *Possession prohibited.* No person shall possess any controlled substance, as defined by the Code of Virginia, while in a public area, unless such possession is expressly authorized by law.

(c) *Under the influence of controlled substances.* No person shall be under the influence of any controlled substance, as defined by the Code of Virginia, while in a public area, unless such substance is administered pursuant to applicable laws.

Sec. 17-52. Possession and use of fireworks and explosives restricted.

No person shall have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, sparklers or other fireworks or explosives, or discharge them or throw them into any such area from land or highway adjacent thereto, except under permit issued by the appropriate governing official in accordance with the provisions of section F-2700, Virginia Fire Prevention Code, as amended and set out in section 11-36(k) of this code.

Sec. 17-53. Solicitation of alms and contributions; permit required.

No person shall solicit alms or contributions for any purpose, whether public or private, without a permit issued by the appropriate governing official.

Sec. 17-54. Entering closed areas prohibited.

No person shall enter an area posted as "Closed to the Public."

Sec. 17-55. Dogs and other domesticated animals.

Dogs and other domesticated animals are prohibited in public areas unless they are crated, caged or on a leash. In the case of a dog, the dog's custodian must secure the animal by a collar with a chain, cord or leash not exceeding eight (8) feet in length, and have the animal under complete and immediate control while in a public area. Dogs may be off-leash only in such areas and during such times as have been specifically designated for such activity by the appropriate governing official. No person shall allow a dog or other animal to discharge excrement on the premises of any public area, without promptly removing and disposing of the waste in such a manner as to eliminate any inconvenience to others. Domesticated animals are prohibited in public eating places and on all swimming or bathing beaches. The appropriate governing official may also designate, by the posting of appropriate signs, other portions of the public areas where domesticated animals are not permitted. This section shall not apply to guide dogs for the handicapped. A violation of any provision of this section shall be punished by imposition of a civil penalty as is set out in section 1-10 of this Code.
(Ord. No. 03-22, 6/17/03)

Cross reference—Animals and fowl, Ch. 4.

Sec. 17-56. Wildlife protected; hunting.

(a) *Firearms.* No person shall use, carry or possess firearms of any description, or air rifles, spring guns, bows and arrows, slings, or any other forms of weapons potentially inimical to wildlife or dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, without a permit from the appropriate governing official. Shooting into public areas from beyond public area boundaries is also forbidden. Authorized law enforcement officials, however, may carry and discharge firearms in the performance of their official duties.

(b) *Hunting.* The hunting, killing, wounding, frightening, capturing, trapping, or attempting to kill, wound, frighten or capture at any time of any wildlife is prohibited, except when it is necessary to prevent injury to persons, or if deemed necessary by the appropriate governing official for game management purposes.

Cross reference—Animals and fowl, Ch. 4.

Sec. 17-57. Assemblies, meetings, demonstrations, parades in public areas; permit required.

(a) The intent of this section is to permit the public's use of public property, but to require a permit for certain activities in order to preserve the public peace, health, safety and welfare, to maintain law and order, and to provide for the free and orderly flow of vehicular and pedestrian traffic within public areas.

(b) For the purpose of this section, the following words shall have the meanings respectively ascribed to them:

(1) *Assembly.* A group of twenty (20) or more persons gathering together for the common purpose of associating with one another or expressing ideas among one another, including, but not limited to, public addresses, lectures, or discourses.

(2) *Meeting.* A group of twenty (20) or more persons gathering together for the purpose of discussing or acting upon some matter or matters of common interest to them.

(3) *Demonstration*. Any person or group of persons attempting to call public attention to their views on any subject by their actions, such as picketing or carrying signs.

(4) *Parade.* A group of six (6) or more persons walking, marching, or otherwise proceeding on or across a public area for the purpose of calling the attention of the public to themselves.

(c) A permit issued by the appropriate governing official shall be required for any assembly, meeting, demonstration, or parade on or across any public area, except for the following:

(1) Activities for which other permits required by this chapter have been issued;

(2) Activities sponsored by or a part of programs sponsored by the appropriate governing authority.

Sec. 17-58. Miscellaneous personal conduct.

(a) *Profanity.* No person shall profanely curse or swear.

(b) *Disorderly conduct.* Disorderly conduct as defined by the Code of Virginia is prohibited.

(c) *Facility regulations.* No person shall violate the regulations relating to the use of any building or place.

(d) *Care of restrooms.* No person shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms designated for the opposite sex.

(e) *Nudity.* No person shall indecently expose his person or appear in a state of nudity, as defined elsewhere in this Code.

(f) *Changing clothes.* No person shall change clothes, dress, undress or otherwise disrobe, except outer wraps, except in restrooms or other structures designed for said purpose.

(g) *Sleeping in public areas.* No person shall sleep in public areas during any time between sunset and sunrise without a permit for such activity.

(h) *Fraudulently obtaining accommodations and services.* Obtaining food, lodging, entertainment or other accommodations in a public area without making payment therefor on demand is prohibited.

(i) *Entrance into public parks.* No person shall enter or leave a public park except by the entrances provided for that purpose, nor cause or create additional entrances or exits except in the case of emergency.

(j) *Interferences with permittees.* No person shall disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit.

(k) *Exhibiting permits.* No person shall fail to produce and exhibit a permit upon request by any governing official or law enforcement officer desiring to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

(l) *Reporting of injury or damage.* All incidents resulting in damage to property and all unsafe conditions resulting in injury to persons must be reported by the person or persons involved as soon as possible to the appropriate governing official. This report does not relieve person from the responsibility of making any other accident reports which may be required under state law.

(m) *False reports.* The giving of false or fictitious reports or other information to any authorized person investigating an accident or any violation of law or regulations is prohibited.

(n) *Lost and found articles.* All lost articles shall be deposited by the finder at the office of the appropriate governing official or at the nearest county or school office, leaving his name and address.

(o) *Erection of structures.* No person shall construct, erect or modify any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across a public area, except on written permit issued hereunder.

Sec. 17-59. Noise regulation.

(a) *Prohibition.* Notwithstanding any other provision of this Code, and in addition thereto, it shall be unlawful for any person to willfully or negligently make or continue, or cause to be made or continued, in or into a public area any loud, unnecessary or unusual noise which disturbs the peace and quiet of any adjoining neighborhood or which causes any discomfort or annoyance to any reasonable person of normal sensitivity residing nearby or lawfully using the public area.

(b) *Measure of noise limits.* In addition to the prohibition in paragraph (a) above, no person shall operate or cause to be operated in or into a public area any source of sound in such a manner as to exceed the levels set forth below when measured at a distance of at least six feet (6') from such source:

Time Period	*Noise Level (in decibels)*
7:00 a.m. to 10:00 p.m.	67
10:00 p.m. to 7:00 a.m.	57

(c) *Noise measurement procedure.* Utilizing the "A" weighting scale of a Type II sound level meter and the "slow" meter response, the noise level shall be measured at any point which is at least six feet (6') from the sound source.

(d) *Exemptions.* The provisions of paragraphs (a) and (b) of this section shall not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided such events are conducted pursuant to a permit or license issued by the appropriate governing official relative to the staging of such events.

Secs. 17-60—17-70. Reserved.

DIVISION 2. MERCHANDISING, ADVERTISING AND SIGNS

Sec. 17-71. Vending and peddling prohibited; exceptions.

No person shall expose or offer for sale any article, thing, or service nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, except for nonprofit organizations operating in accordance with a permit issued by the appropriate approving official. Exception is made as to any permanent, seasonal or temporary regularly licensed concessionaire acting by and under the authority and regulation of the appropriate governing official.

Sec. 17-72. Advertising; permit required.

No person shall announce, advertise or call the public attention in any way to any article or service for sale or hire without a permit issued by the appropriate governing official.

Sec. 17-73. Signs; prohibited.

No unauthorized person shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads in a public area.

Sec. 17-74. Begging and soliciting, etc., prohibited.

Begging, soliciting and hitchhiking or the soliciting of transportation is prohibited.

Sec. 17-75. Commercial photography.

Before any motion picture may be filmed or any television production or sound track may be made which involves the use of professional casts, settings or crews by any person other than bona fide newsreel or news television personnel, written permission must first be obtained from the appropriate governing official. The taking of photographs of any articles of commerce or models for the purpose of commercial advertising without a written permit from the appropriate governing official is prohibited.

Sec. 17-76. Sale or distribution of printed matter.

(a) *Permit required.* The sale or distribution of printed matter is permitted within public areas, provided a permit to do so has been issued by the appropriate governing official, and provided further that the printed matter is not commercial advertising.

(b) *Regulations governing sale and distribution of printed matter:*

(1) Persons engaged in the sale or distribution of printed matter under this chapter shall not obstruct or impede pedestrians or vehicles, harass public areas visitors with physical contact or persistent demands, misrepresent the purposes or affiliations of those engaged in the sale or distribution or misrepresent whether the printed matter is available without cost or donation;

(2) The sale or distribution of printed matter without a permit or in violation of the terms or conditions of a permit is prohibited;

(3) Any permit may be revoked under any of those conditions listed in this chapter which constitute grounds for denial of a permit or for the violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation.

Secs. 17-77—17-87. Reserved.

ARTICLE V. TRAFFIC*

Sec. 17-88. Operation of motor vehicles.

(a) *State motor vehicle laws.* No person shall fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles in and on public areas together with such regulations as are contained in this chapter and other ordinances.

(b) *Muffler required.* No person shall fail to use a muffler adequate to deaden the sound of the engine in a motor vehicle, in compliance with the requirements of state law.

(c) *Traffic regulations.* No person shall fail to obey all traffic officers and appropriate governing officials, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the public areas and on the highways, streets or roads immediately adjacent thereto, in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the appropriate governing official.

(d) *Traffic signs.* No person shall fail to observe carefully all traffic signs indicating speed, direction, cautions, stopping or parking, and all others posted for proper control and to safeguard life and property.

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*__Cross reference—__Motor vehicles and traffic generally, Ch. 15; streets and roads, Ch. 20.

(e) *Speed of vehicles.* No person shall operate a vehicle at a rate of speed exceeding fifteen (15) miles per hour except upon such roads as the appropriate governing official may designate, by posted signs, for speedier travel.

(f) *Operation confined to roads.* No person shall drive any vehicle, including nonlicensed motorized vehicles, except during an emergency on any area except the paved public area roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parkingareas by the appropriate governing official. No motorcycle, go-cart, moped, minibike, motorized trail bike or similar vehicle shall be operated in or on the parking lot of any public school or county-owned building.

(g) *Vehicles on official business.* The restrictions and prohibitions contained in this chapter shall not apply to the officials, agents or employees of any governmental agency while properly engaged in the scope of their employment or to authorize persons delivering supplies or performing maintenance or repairs to any public area or the improvements thereon.

Sec. 17-89. Parked motor vehicles.

(a) *Parking areas.* Operators of vehicles shall park only in designated areas that have been provided for that purpose, and shall comply with posted restrictions. Parking on grass is prohibited unless indicated otherwise on legible notices posted by the appropriate governing official.

(b) *Double parking.* No person shall double park any vehicle on any road or parkway unless directed by an appropriate governing official.

(c) *Reserved parking for the handicapped.* It shall be unlawful to park any motor vehicle in a parking space reserved for the handicapped except as authorized elsewhere in this Code.

(d) *Washing and servicing vehicles.* Washing, repairing or servicing of vehicles is prohibited in the public areas, except for the making of repairs required for removal of the vehicle from the area. Abandonment of vehicles is prohibited. If mechanical disablement occurs in public areas, immediate steps must be taken for removal.

(e) *Parking of recreational vehicles.* It shall be unlawful for any person to park a recreational vehicle, or to allow such a vehicle owned by him or under his control to remain, upon any public area or to occupy or use any recreational vehicle in any public area at any time between 12:00 midnight and 5:00 a.m. of any day, except pursuant to written permit issued by the appropriate governing official.

(f) *Towing; removal of unoccupied motor vehicles and recreational vehicles*. Any unoccupied motor vehicle or recreational vehicle found parked or left in violation of this chapter shall be caused to be removed by the sheriff's department or appropriate governing official and stored in a safe place. Any costs for such removal and storage shall be assessed against the owner and shall be paid by the owner prior to the release of such vehicle from storage.

Cross references—Parking in parking space reserved for handicapped, § 15-48; off-street parking and loading, § 24.1-600 et seq.

Sec. 17-90. Bicycles.

(a) *Restricted from pedestrian walks and athletic fields.* No person shall ride a bicycle on a sidewalk, trail or path solely for pedestrian use, or on any area designed to accommodate specific types of recreational activities other than bicycling.

(b) *Proper operation.* Bicyclists shall at all times operate their vehicles with reasonable regard for the safety of others.

(c) *Parking bicycles.* No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is space available. When space is not available, a bicycle shall not be left in any place or position where other persons may trip over or be injured by it.

(d) *Lamp and reflectors.* Every bicycle when in use between sunset and sunrise shall be equipped with a lamp on the front which shall emit a white light visible in clear weather from a distance of at least five hundred feet (500') to the front and with a red reflector on the rear of the bicycle which shall be visible from all distances in clear weather from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible in clear weather from a distance of five hundred feet (500') to the rear may be used in lieu of or in addition to the red reflector.

Cross Reference – Bicycle helmets, Section 16-39.

Secs. 17-91—17-101. Reserved.

ARTICLE VI. OPERATING POLICY

Sec. 17-102. Patron visiting hours established.

The appropriate governing official may establish a schedule of visiting hours for all or portions of a public area except as provided below and close to public use all or any portion of a public area, including the Yorktown Waterfront, when necessary for the protection of the area for the health, safety and welfare of persons or property by the posting of appropriate signs. All persons shall observe and abide by posted signs designating closed areas and visiting hours. Use of closed portions of a public area shall be by permit only. Establishment and alteration of a schedule of visiting hours for the Yorktown Waterfront shall be with the expressed written concurrence of the Yorktown Trustees.

Sec. 17-103. Facility availability; scheduling.

The appropriate governing official shall schedule the use of picnic, group-use facilities, or other public areas when required by this chapter by the issuance of a permit. All unreserved and unscheduled facilities are available on a first-come, first-served basis, except as provided otherwise herein.

Sec. 17-104. Permits—Required for certain activities.

As further delineated in this chapter, permit(s) issued by the appropriate governing official shall be required for the following activities:

(a) To dock commercial watercraft at a public wharf, dock or pier (section 17-16(c));

(b) To reserve picnic facilities or to reserve any group-use facility (section 17-103);

(c) Camping (section 17-19);

(d) To kindle a fire in any area other than fireplaces and grills located in camping and picnic areas (section 17-23);

(e) Collecting scientific specimens (section 17-35(c));

(f) Cutting or removing firewood (section 17-35(d));

(g) Using metal-detecting devices at a public park (section 17-35(e));

(h) Possessing and using fireworks or explosives (section 17-52);

(i) Soliciting alms or contributions (section 17-53);

(j) Using, carrying, or possessing firearms, bows, slings, or other weapons (section 17-56(a));

(k) Public meetings, assemblies, gatherings, demonstrations and parades (section 17-57);

(l) Constructing, erecting or modifying any structure or connecting to utilities (section 17-58(o));

(m) Sleeping in public areas at night; (section 17-58(g));

(n) Vending of articles by nonprofit organizations (section 17-71);

(o) Advertising (section 17-72);

(p) Taking photographs or making motion pictures for commercial purposes (section 17-75);

(q) Selling or distributing printed matter (section 17-76);

(r) Parking a recreational vehicle in a public area between 12:00 midnight and 5:00 a.m. (section 17-89(e));

(s) Using closed portions of public areas (section 17-102);

(t) Horseback riding (section 17-22);

(u) Flying model airplanes or hot air balloons. (section 17-20(b));

(v) Assemblies, meetings, demonstrations, and parades in public areas (section 17-57).

Sec. 17-105. Same—Application required.

A person seeking issuance of a permit for any of the activities listed in section 17-104 or elsewhere in this chapter shall file a written application with the appropriate governing official. The application shall state:

(a) The name and address of the applicant;

(b) The name and address of the person, persons, corporation or association sponsoring the activity, if any;

(c) The day and hours for which the permit is desired;

(d) The nature of the proposed activity, use or event;

(e) The public area or portion thereof for which such permit is desired;

(f) An estimate of the anticipated attendance;

(g) Any other information which the appropriate governing official shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.

Sec. 17-106. Same—Standards for issuance.

The appropriate governing official shall issue a permit hereunder when he finds:

(a) That the proposed activity or use of the public area will not unreasonably interfere with or detract from the general public's enjoyment of the public area or with other scheduled activities;

(b) That the event is of such a nature or duration that it can be reasonably accommodated in the particular public area applied for;

(c) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(d) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

(e) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the county;

(f) That the facilities desired have not been reserved for other use at the day and hour requested in the application;

(g) That the applicant does not have a history of violating permit conditions;

(h) That the proposed use is consistent with the provisions of this Code and state law.

A permit may contain such conditions as are reasonably consistent with the protection and use of public areas for purposes for which they are maintained. It may also contain reasonable limitations on the time and area within which the activity is permitted.

Sec. 17-107. Same—Fees; security deposits.

(a) *User fees.* The appropriate governing authority shall establish and maintain a uniform schedule of fees to be charged persons using public areas or portions of public areas as it deems reasonable in order to offset the cost of maintaining and providing services to such area.

(b) *Maintenance fees.* The appropriate governing official may establish and maintain a uniform schedule of fees to be charged the public or permittees to cover the cost of such things as electrical service, equipment rental, special services or items required for scheduled activities, food or other concession items, supplies, and the like.

(c) *Authority to charge admission fees.* By authorization of the appropriate governing authority, permittees may charge admission fees for admission to the public area or portion of a public area for which they have a permit to use.

(d) *Security deposits.* The appropriate governing official shall establish and maintain a uniform schedule for a security deposit required for special activities authorized under a permit. The appropriate governing official may require a bond, refundable cash deposit, or other appropriate security from persons securing permits, which will be held in escrow until after said person has vacated the facility, and then be refunded if permit conditions are met. The security deposit shall be used to cover the cost of damage to facilities, as determined by the appropriate governing official, and shall not limit the permittee's liability for damages in excess of the amount of the security deposit.

Sec. 17-108. Same—Denial appeal procedure.

Within twelve (12) days after receipt of an application, the appropriate governing official shall issue, or apprise an applicant in writing of his reasons for refusing to issue a permit. Any person whose application is denied shall have the right to appeal in writing within twelve (12) days to the appropriate governing authority, which shall consider the application under the standards set forth in section 17-106 of this chapter and sustain or overrule the appropriate governing official's decision within fifteen (15) days. The decision of the appropriate governing authority shall be final.

Sec. 17-109. Responsibility, liability of permittee.

(a) *Responsibility.* A permittee shall be bound by all public area rules and regulations and all applicable ordinances as fully as though the same were contained in the permit.

(b) *Liability.* The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

Sec. 17-110. Revocation of permit.

The appropriate governing official shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, when a facility may become hazardous for public use due to weather or fire, or upon good cause shown.

CODE OF THE COUNTY OF YORK

Chapter 17.5

RESERVED

CODE OF THE COUNTY OF YORK

Chapter 18

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CODE OF THE COUNTY OF YORK

Chapter 18.1

SEWAGE DISPOSAL AND SEWERS

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ARTICLE I. IN GENERAL

Sec. 18.1-1. Purpose and Policy.

This chapter sets forth uniform requirements for sewage disposal in York County. It covers both individual and public disposal systems. It is recognized that adequate means for collecting and disposing of wastewater is essential to the public health, safety, convenience, comfort, and prosperity and the orderly growth and development of the county. The provisions of this chapter shall apply throughout the county including specifically any established sanitary districts. This chapter also provides for the construction, operation, extension, maintenance, and the setting of charges and fees for the use of the sewage facilities of the county and its sanitary districts. Revenues derived from the application of this chapter shall be used to defray the county's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, financing costs, and depreciation.

Sec. 18.1-2. Definitions.

Abut. Touching, adjoining, or bordering on.

Applicant. The owner of the property to be served, or his duly authorized representative who applies to the county for sewer service.

Appurtenance. Any accessory object or component connected to a public sewer.

Building sewer. A sewer system conveying wastewater from the improvements on the premises of a user to the facilities of the county, to private sewage systems, to individual sewage disposal systems, or to other points of disposal.

Connection fee. An initial service charge levied to defray the costs associated with providing public sewer.

Construction. Any placement or installation of sewer facilities or equipment including preparation work for such installation.

Contractor. Any person performing work (other than the county) on facilities of the county.

County. York County, Virginia, or any of the established Sanitary Districts in York County.

Developer. Any person having a legal interest in real property which may now or in the future be served by the facilities of the county and who is or may be responsible for the design and/or construction of such facilities.

Development. Any building or subdivision activity which is required to have either site plan or subdivision approval of the county before it is commenced.

Dwelling unit. A single unit providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Engineer. A registered professional engineer currently licensed to practice in the Commonwealth of Virginia.

Existing structure. A structure completed or placed on a parcel, as evidenced by a certificate of use and occupancy, on or before the date that notice is given that sewer service is accessible and which is located within three hundred feet (300') of the easement or right of way in which such service is located.

Facilities of the county. Any sewer pipe, manhole, pumping station, force main, or other appurtenance of the wastewater collection system or treatment works, whether located within or without the boundaries of the county, which have been, are, or are intended to be installed, operated or maintained by the county or in the installation, operation or maintenance of which the county has participated, is participating, or intends to participate financially.

Future structure. A structure completed after the date that notice is given that sewer service is available, as evidenced by the absence of a certificate of use and occupancy at the time notice is given.

Future use capacity. Capacity for the future in system facilities; capacity not needed at time of design and construction to accommodate existing needs; or capacity which provides for the future development of property and for community growth.

Governing body. The Board of Supervisors of York County which serves as the governing body for both the county and the sanitary districts of the county.

Grinder pump. A compact lift station with pump(s), storage capacity and appurtenant piping, valves and other mechanical and electrical equipment which grinds or reduces the particle size of wastewater solids and which conveys the product from its source to a gravity sanitary sewage collection system or a sanitary sewer force main.

Health department. The York-Poquoson Health Department or, where appropriate to the context, the Virginia Department of Health.

HRSD. The Hampton Roads Sanitation District which is the regional agency that provides regional transmission and treatment facilities for wastewater.

Incremental capacity. The additional capacity required in system facilities to accommodate a specific development.

Industrial wastes. Liquid and liquid carried wastes resulting from industrial, manufacturing, trade or business processes, including industrial cooling water and unpolluted trade or process waste, as distinct from sewage contributed by domestic sources in its entirety.

Infiltration. The water entering a wastewater system from the ground, through such means as defective pipes, pipe joints, connections, or manhole walls.

Inflow. Water discharged into a wastewater system from such sources as roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections, storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters, or drainage.

Installed; repaired; approved; standard. Include, whenever such terms are used, the phrase "in accordance with any standards and specifications established pursuant to this chapter."

Lateral line. A sewer pipeline running from a building sewer to a sewer line serving the area.

Local facilities. All sewer facilities serving only one (1) development; any lateral line to which a building sewer connection is made; all gravity sewers six inches (6”) or less in diameter; and sewer facilities whether on-site or off-site, necessary to make the facilities of the county accessible to the premises.

Nonuser. An owner of premises who is not physically connected to the facilities of the county in accordance with provisions of this chapter but who has elected to pay voluntarily the applicable connection fee and service charges.

Off-site extension. An extension of a sewer line from existing local or system facilities of the county to the property boundary of the developer or applicant in a manner and location approved by the county.

Owner. Any person having an interest whether legal or equitable, sole or partial, in real property which is, or which may in the future be, served by the facilities of the county.

Premises. Any building, group of buildings, or land upon which buildings are to be constructed which is or may be served by the facilities of the county.

Premises having access to the facilities of the county. Having access to the facilities of the county means any improved premises which abut a highway, street, easement, alley, or other public space in which the facilities of the county are located when the improvements to be served on such premises are located no

more than three hundred feet (300') from facilities of the county which can serve the improvements without the installation of privately owned grinder pumps.

Premises having service available. Any premises, whether improved or unimproved, which abut the facilities of the county or a right-of-way in which such facilities are located and which could be served by such facilities but is deemed not to be a premises having access to the facilities of the county because such premises are unimproved or because of distance between the facilities and the improvements on the property or because the installation of an individual grinder pump would be necessary to serve improvements on the property.

Primary service area. An area or areas designated by the governing body for current or future emphasis in the provision of public sewer service based on plans for future development of the county.

Private sewer system. A sewer system owned by one or more persons as opposed to a facility of the county.

Public sewer. A sewer system owned and operated by the county, HRSD, or any adjoining city or county

Pumping chamber. A below-grade compartment into which sewage flows from a septic tank and from which the effluent is pumped to an elevated sand mound or a low pressure distribution system.

Septic tank. A tank which provides for the settling of heavy solids as well as oil and grease skimming and the conversion of sanitary sewage to an anaerobic state.

Septic tank pump truck. Any vehicle used or designed for the conveyance of wastewater, sludge, or other liquid wastes originating from holding tanks, septic tanks, and pumping chambers.

Service charge. An initial and/or periodic charge levied to defray costs associated with the construction, operation, maintenance, repair, and replacement of public sewer.

Sewage. That water-carried waste which derives principally from dwellings, businesses, institutions, industry and the like, exclusive of any storm and surface water.

Sewer. A pipe or conduit for carrying sewage.

Sewer system. All facilities for collecting, conveying, pumping, treating, and disposing of sewage.

Soil absorption area. The soil medium beginning at grade which includes the soil, gravel, or sand interface used for absorption of septic tank effluent. The absorption area includes the infiltrating surface in the absorption trench and the soil between and around the trenches.

Soil absorption systems, general. On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

Standards. The sewer standards and specifications of the county or HRSD.

Storm drain or storm sewer. A system which carries storm or surface waters or drainage, but excludes sewage.

System facilities. All facilities of the county other than local facilities.

Temporary privy. A privy with a tank for collection of human excrement to be used for specified periods and cleaned weekly or more often.

User. Any premises that is physically connected to the facilities of the county.

Wastewater. Sewage.

Wastewater system. Sewer system.
(Ord. No. 098-23(R), 11/18/98; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 12-2, 2/21/12; Ord. No. 14-10, 6/17/14)

Sec. 18.1-3. Responsibility of the County Administrator.

The county administrator shall have direct charge, including the responsibility for operation and maintenance, of the facilities of the county. He shall prepare such standards and regulations not inconsistent with this chapter as may be necessary to regulate the design, construction, and operation of the facilities of the county, other sewer systems which affect or may affect the existing or future facilities of the county, and of soil absorption systems or other private sewer systems. The standards and regulations shall be subject to the approval of the governing body and shall be amended from time to time as conditions warrant.
(Ord. No. 098-23(R), 11/18/98)

Sec. 18.1-4. Applicability of rules and regulations of Hampton Roads Sanitation District.

All applicable rules and regulations of the Hampton Roads Sanitation District (HRSD) shall apply to sewer service provided through the facilities of the county.

Sec. 18.1-5. Right of entry to premises.

All premises connected to the facilities of the county shall at all reasonable hours be open to the county's duly appointed agents and employees for the purpose of installing, removing, repairing, maintaining, measuring, or sampling the facilities of the county or for inspecting the premises, fixtures, and appurtenances therein which are connected to the facilities of the county.

Sec. 18.1-6. Notice—Generally.

Unless otherwise provided in this chapter or by law, when notice is required to be given by the provisions of this chapter, such notice may be given by certified mail, return receipt requested, to the owner at the mailing address of the owner, as shown on the current Land Book of the county. In the alternative, such notice may be delivered to the owner personally, or a member of the owner's immediate family, or posted at the front door of the premises if the address of the premises is the same as the address listed for the owner on the land book. In the event none of the above methods is available, notice may be given by publication one (1) time in a newspaper of general circulation in the county.

Sec. 18.1-7. Special projects.

Notwithstanding other provisions of this chapter, the governing body may establish by ordinance special connection or user fees or sewer system standards and regulations when such fees or standards and regulations are necessary to qualify for or administer grants or loans from other governmental entities.

Sec. 18.1-8. Enforcement and abatement.

(a) The discharge of wastewater in any manner in violation of this chapter is hereby declared a public nuisance and shall be corrected or abated as provided herein.

(b) Whenever the county administrator determines or has reasonable cause to believe that a discharge of wastewater has occurred or is about to occur in violation of the provisions of this chapter, or any other applicable law or regulation, he shall notify the user of such violation. Failure of the county administrator to provide notice to the user shall not in any way relieve the user from any consequences of a wrongful or an illegal discharge. The notice shall state:

(1) The nature of the actual or threatened violation of this chapter.

(2) The time within which appropriate measures must be taken to prevent any threatened violation or the reoccurrence of any actual violation and to furnish evidence that such corrective action has been taken.

The county administrator shall also notify the health department should the violation fall within its jurisdiction.

(c) In the event such person fails to furnish satisfactory evidence to the county administrator that corrective action has been taken within the time prescribed by the notice, the county administrator shall take such steps as may be required in order to ensure that prohibited discharges of wastewater do not occur.

(d) When a discharge of wastewater or other discharge or deposit into the public sewer causes an obstruction, damage, or other impairment to the public sewer system or to the environment, the county administrator may assess a charge for work required to clean or repair the public sewer system or to repair other damage against the person responsible. Such person shall also be liable for damages due to treatment problems caused, fines resulting therefrom which may be levied against the county by the HRSD, or other costs resulting from the actions of such person.

Sec. 18.1-9. Discontinuance of service for violation of rules or regulations.

Sewer service may be discontinued for any violation of any provision of this chapter or of any rule or regulation promulgated pursuant to this chapter. The procedure outlined for disconnection of water supplies in section 18.1-82(b) of this chapter shall be followed.

Sec. 18.1-10. Violations and penalties.

(a) Any person who violates any provision of this chapter or the regulations established hereunder shall, upon conviction, be punishable by imprisonment not to exceed thirty (30) days or by a fine not to exceed one thousand dollars ($1,000.00), or both. Each day of violation of any provision of this chapter shall constitute a separate offense.

(b) In addition to criminal penalties and other specific relief set forth in this chapter, the county shall have the right to seek injunctive or other appropriate judicial relief which right shall be in addition to any nonjudicial action set forth in this chapter. In any judicial action of a civil nature, the county shall have the right to recover any actual damages sustained, including any expense incurred by the county in corrective or preventative action taken for the purpose of protecting the integrity of the public sewer system or the environment.

(c) The county may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law from any person found to be in violation of, or noncompliance with, this chapter or the orders, rules, regulations, or permits issued hereunder.

Secs. 18.1-11—18.1-20. Reserved.

(Ord. No. 02-6(R-1), 7/16/02)

ARTICLE II. OPERATING PROCEDURES

Sec. 18.1-21. Disposal systems not to endanger health or natural waters.

(a) It shall be unlawful to construct or maintain any privy, privy vault, soil absorption system, cess pool, or other facility intended or used for the disposal of sewage except in accordance with this chapter and in accordance with State Health Department Regulations.

(b) It shall be unlawful for any person to deposit any human excrement upon the surface of the ground or in any place where it may endanger a source of drinking water or be accessible to insects or animals.

(Ord. No. 098-23(R), 11/18/98)

Sec. 18.1-22. Sewer systems required.

It shall be unlawful for the owner of any structure used for human habitation or occupancy, any commercial establishment or other place where humans congregate or are employed in the county to use, occupy, or to rent or lease the same for occupancy by any person or to permit the same to be occupied by any person or for any person to occupy the same, unless and until such structure, building, or operation shall have been supplied or equipped with an approved method for the disposal of sewage in compliance with the requirements set out in this chapter and in State Health Department Regulations.

Sec. 18.1-23. Availability of sewage disposal prerequisite to issuance of building permit.

No permit shall be issued for the erection or construction of any building or structure requiring wastewater disposal unless the owner of such property provides evidence to the satisfaction of the building official that the premises has a permit for connection to the facilities of the county issued pursuant to section 18.1-63 of this chapter or that other facilities for sewage disposal meeting the requirements of this chapter can and will be provided.

Sec. 18.1-24. Building sewers.

(a) The methods, materials, and equipment used in the construction and installation of building sewers shall comply with the Uniform Statewide Building Code, applicable Standards, and the provisions of this chapter. In addition to other cleanouts required, a cleanout shall be installed at an accessible point at or near the property line of the premises.

(b) All required permits and certificates shall be obtained before construction, alteration, or repair is commenced on a building sewer or connection thereof is made to the facilities of the county.

(c) Prior to building permit issuance, inspection fees in the same amount set forth in section 18.1-52(d) and the connection fees set forth in section 18.1-64(a) shall be paid for the inspection by the county of building sewers in any development.

(Ord. No. O97-35, 12/17/97; Ord. No. 14-10, 6/17/14)

Sec. 18.1-25. Damage to facilities.

(a) No person shall maliciously, willfully or negligently break, damage, remove, destroy, uncover, deface or tamper with any structure, apparatus or equipment which is part of the facilities of the county.

(b) No person shall damage or deface any property of the facilities of the county, cut any trees or dump any refuse or rubbish upon any part of the property used in connection with the facilities of the county.

(c) In the event of damage to the facilities of the county, it shall be the responsibility of the person causing such damage to notify immediately the county administrator. The necessary repairs or replacement shall be made by the county or under the supervision of the county at the expense of the person causing such damage.

Sec. 18.1-26. Construction safeguards.

Any person engaged in construction of an authorized plumbing connection or sewer facilities shall comply with all provisions of this chapter and any regulations adopted pursuant to it, and with any other applicable provisions of law, and shall install adequate safeguards during construction to ensure compliance at all times with such regulations and laws.

Sec. 18.1-27. Removal of safety and warning devices prohibited.

No person shall maliciously, willfully or negligently break, remove, destroy, move, deface or tamper with any safety light, barricade, pot torch or other safety device placed for either the public or workers' protection during the construction, repair or maintenance of any public sewer facility.

Sec. 18.1-28. Unauthorized tapping, drilling, or cutting of sewers.

It shall be unlawful for any person, other than a duly authorized employee or agent of the county, to tap, drill into or cut any facility of the county.

Sec. 18.1-29. Supplying services to premises of another.

It shall be unlawful for any person to extend any pipe or use any device or attachment to supply service to any premises other than the premises described in the application for connection or service.

Sec. 18.1-30. Prohibitions and limitations on use of the public sewer system.

(a) No person shall discharge or deposit or cause or allow to be discharged or deposited into the public sewer system any wastewater which contains the following:

(1) *Fats, oils and grease (FOG) as defined in section 18.1-31, in violation of such sections.*

(2) *Any gasoline, benzene, naphtha, solvent, fuel oil or a liquid, solid, or gas* that may cause flammable or explosive conditions, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred-forty degrees (140º) Fahrenheit using test methods specified in 40 CFR 261.21.

(3) *Noxious material*. Noxious or malodorous solids, liquids, or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into the system for its operation, maintenance, and repair.

(4) *Improperly shredded garbage.* Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewer system, with no particle greater than one-half (½") inch in any dimension.

(5) *Radioactive waste*. Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the system or personnel operating the system.

(6) *Solid or viscous wastes*. Solid or viscous wastes which will or may cause or contribute to obstruction in the flow of wastewater in a sewer, or otherwise interfere with the proper operation of the system. Prohibited materials include, but are not limited to: uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, mud, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, seafood processing by-products, and similar substances.

(7) *Unpolluted waters*. Any unpolluted water including, but not limited to: water from cooling systems or of storm water origin, which will increase the hydraulic load on the system.

(8) *Corrosive wastes*. Any waste which will cause corrosion or deterioration of the system. All wastes discharged to the system shall have a pH value in the range of five (5) to ten (10) standard units. Prohibited materials include, but are not limited to: acids, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form acidic products.

(b) No person shall discharge or convey or permit or allow to be discharged or conveyed to the public sewer system any wastewater containing pollutants of such character or quantity that will:

(1) Not be susceptible to treatment or cause interference with the process or efficiency of the system.

(2) Constitute a hazard to human or animal life or to the stream or water course receiving the wastewater treatment plant effluent.

(3) Violate federal, state, or HRSD pretreatment standards.

(c) No person owning vacuum or septic tank pump trucks or other liquid wastewater transport trucks shall discharge directly or indirectly such wastewater into the public sewer system, unless such person shall first have applied for and received a permit from the county and HRSD for each vehicle. All applicants for this permit shall complete such forms as required by the county and HRSD, pay any required fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the county and HRSD. Such permit shall be limited to the discharge of domestic wastewater containing no industrial wastewater. The county and HRSD shall designate the locations and times where such trucks may be discharged and may refuse to accept any truck load of wastewater where it appears that the wastewater could cause interference with the effective operation of the wastewater system.

(d) No person shall discharge any other holding tank wastewater into the system unless he shall have applied for and have been issued a permit by the county and HRSD. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each location of discharge. This permit shall include the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefore and shall comply with the conditions of the permit. No permit, however, will be required to discharge domestic wastewater from a recreational vehicle or a marine vessel holding tank, providing such discharge is made into an approved facility designed to receive such wastewater.

(e) Sand traps shall be provided in accordance with the following:

(1) Sand interceptors or traps shall be provided when necessary for the proper handling of sand and other harmful ingredients, except that such interceptors or traps will not be required for dwelling units.

(2) All interceptors or traps shall be of a type and capacity approved by the building official, and shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures and shall be of substantial construction, gastight, watertight, and equipped with easily removable covers.

(3) All sand interceptors or traps shall be maintained by the user in continuously efficient operation at all times.

(4) Approval of proposed facilities or equipment by the building official does not, in any way, guarantee that such facilities or equipment will function in the manner described by their constructor or manufacturer; nor shall it relieve a person, firm, or corporation of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose.

(Ord. No. 098-23(R), 11/18/98; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 12-2, 2/21/12)

Sec. 18.1-31. Fats, Oil and Grease (FOG).

(a) *Purpose and applicability*

(1) The purpose of this section is to aid in preventing the introduction and accumulation of fats, oil and grease into the County's sanitary sewer system that may contribute to sanitary sewer blockages and obstructions. Foodservice establishments, grease haulers and other industrial or commercial establishments generating or collection wastewater containing fats, oils and grease are subject to this section. This section regulates such users by requiring that grease control device and other approved strategies be installed, implemented and maintained in accordance with the provisions of this section and other applicable requirements of the County.

(2) The provisions of this section shall apply to all food service establishments within the County and to all grease haulers providing service to any such food service establishment.

(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.1 Definitions

Brown Grease shall mean floatable fats, oils, grease and settled solids produced during food preparation that are recovered from grease control devices.

Department shall mean the York County Department of Environmental and Development Services.

Director shall mean the Director of the York County Department of Environmental and Development Services.

Enforcement Response Plan shall mean a system that sets forth the process and procedures for enforcement of this section by the County.

Fats, Oils, and Grease (FOG) shall mean material, either liquid or solid, composed of fats, oils or grease from animal or vegetable sources. Example of FOG include, but are not limited to, kitchen cooking grease, vegetable oil, bacon grease and organic polar compounds derived from animal and/or plant sources that contain multiple carbon triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations at 40 CFR Part 136, as may be amended from time to time. FOG may be referred to herein as "grease" or "greases".

Food Service Establishment (FSE) shall mean any commercial, industrial, institutional, or food processing facility discharging kitchen or food preparation wastewaters including, but not limited to, restaurants, commercial kitchens, caterers, motels, hotels, cafeterias, correctional facilities, prisons or jails, cafeterias, care institutions, hospitals, schools, bars, and churches. Any establishment engaged in preparing, serving, or otherwise making food available for consumption by the public shall be included. Such establishments use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbequing, and other preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

Grease Control Device (GCD) shall mean a device used to collect, contain, or remove food waste and grease from the wastewater while allowing the remaining wastewater to be discharged to the County's sanitary sewer system by gravity. Devices include grease interceptors, grease traps, automatic grease removal devices or other devices approved by the Director.

Grease Hauler shall mean a contractor who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services related to grease interceptor maintenance for a FSE.

Grease Interceptor shall mean a structure or device, usually located underground and outside a FSE, designed to collect, separate and contain food waste and grease while allowing the wastewater to be discharged to the County's sanitary sewer system by gravity.

Grease Removal Device shall mean an active, automatic device that separates and removes FOG from effluent discharge and that cleans itself of accumulated FOG at least once every twenty-four hours utilizing electromechanical apparatus.

Grease Trap shall mean a device typically located indoors and under the sink or in the floor designed for separating and containing grease prior to the wastewater exiting the trap and entering the sanitary sewer system. Such devices are typically passive (gravity fed) and compact with removable baffles.

Renderable FOG Container shall mean a closed, leak-proof container for the collection and storage of yellow grease.

Yellow Grease shall mean FOG used in food preparation that have been in contact or contaminated with other sources such as water, wastewater or solid waste. An example of yellow grease is fryer oil, which can be recycled into products such as animal feed, cosmetics and alternative fuel. Yellow grease is also referred to as renderable FOG.
(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.2 Registration Requirements

All FSE's shall be required to register their GCD's. Registration shall be on forms provided by the Department of Environmental and Development Services to ensure that such devices are properly sized and maintained, as well as to facilitate inspection in accordance with the requirements established by the Department of Environmental and Development Services.

(a) Existing FSEs shall register all GCDs within one hundred and eighty (180) days of the adoption of this ordinance. New establishments shall register when setting up their water and sewer service or prior to obtaining a certificate of occupancy.

(b) All grease haulers, owners, or employees servicing GCD's for FSE's within the County shall be required to obtain a certification to service GCD's from the Hampton Roads FOG regionally-approved training program provided by the Hampton Roads Sanitation District (HRSD).

(c) All grease haulers shall obtain the required permits, certifications and or approvals from the facility in which waste will be disposed of. Grease haulers discharging to a HRSD treatment plant shall be approved through the HRSD Indirect Wastewater Discharge Permit.

(d) FSE's shall have a current employee who has successfully completed the Hampton Roads FOG regionally-approved Best Management Practices training program provided by the HRPDC.
(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.3 Discharge Limits

No person shall discharge or cause to be discharged from any FSE any wastewater with FOG in concentrations or quantities that will damage the sewers or sanitary sewer system, as determined by Section 301 D. of the HRSD's Industrial Wastewater Discharge Regulations.
(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.4 Grease Control Devices

(a) *Requirements*. All FSE's shall have a GCD(s) meeting all applicable requirements of the International Plumbing code or its successors. The GCD(s) shall be designed in accordance with the Hampton roads Regional Grease control Device Design Standards.

(1) *New Establishments* – Except as provided in subsections (a) (2) below, FSEs shall be required to install, operate, and maintain a GCD in compliance with the requirements contained in this section 18.1-31. GCDs shall be installed and registered prior to the issuance of a certificate of occupancy.

(2) *Existing Establishments* – Existing FSEs in operation as of the effective date of this section shall be allowed to operate and maintain their existing GCD's provided such GCDs are in proper operating condition and not found to be contributing FOG quantities sufficient to cause line stoppages or to necessitate increased maintenance of the sanitary sewer system. If its GCD is determined to be contributing FOG in quantities sufficient to cause line stoppages or to necessitate increased maintenance of the sanitary sewer system, an existing FSE shall comply with the requirements of this section. Existing FSEs that are renovated or expanded shall install a GCD meeting the requirements of this section. GCDs shall be installed, inspected and registered as a condition of final approval of such renovation or expansion.

(3) *Retrofit* – Any existing FSE may be required to install or upgrade a GCD if such FSE is contributing FOG to the sanitary sewer system, as determined by the Director and HRSD. Such devices shall be registered with the Director within 30 days of installation.

(b) *Installation of Grease Control Devices.* GCDs shall be installed by a plumber licensed in the Commonwealth of Virginia. Every GCD shall be installed and connected so that it may be readily accessible for inspection, cleaning, and removal of the intercepted food waste and grease at any time.

(c) *Maintenance of Grease Control Devices*

(1) All GCDs shall be maintained at the owner's expense. Maintenance shall include the complete removal of all contents, including floating material, wastewater and settled solids. Decanting or discharging of removed waste back into the grease interceptor or private line or into any portion of the County's or HRSD's sanitary sewer system is prohibited.

(2) Grease interceptors shall be pumped out completely when the total accumulation of FOG, including floating solids and settled solids, reaches twenty-five percent (25%) of the overall liquid volume. At no time shall a GCD be cleaned less frequently than once every three (3) months unless allowed by the Director for good cause shown. Approval will be granted on a case-by-case basis upon submittal of a request by the FSE, documenting reasons for the proposed frequency variance.

(3) Grease traps and grease removal devices shall be opened, inspected and completely cleaned of food solids and FOG a minimum of once per week, unless allowed by the Director for good cause shown. Approval will be granted on a case-by-case basis upon submittal of a request by the FSE documenting reasons for the proposed frequency variance. In no event shall the content of food solids and FOG exceed twenty-five percent (25%) of the overall liquid depth of the device.

(4) The Director may establish a more frequent cleaning schedule if the FSE is found to be contributing FOG in quantities sufficient to cause line stoppages or to necessitate increased maintenance of the sanitary sewer system.

(d) *Use of Additives*. The use of additives by FSE's including, but not limited to, products that contain solvents, emulsifiers, caustics, acids, enzymes or bacteria are prohibited for use as grease management control; provided, however, that additives may be used to clean the FSE drain lines so long as the usage of such additives will not cause FOG to be discharged from the grease control device to the sanitary sewer system. The use of additives shall not be substituted for the maintenance procedures required by this section.

(e) *Waste Disposal*

(1) Waste removed from a grease trap shall be disposed of in the solid waste disposal system or by a grease hauler certified by the Hampton Roads Planning District Commission.

(2) Waste removed from a grease interceptor shall be disposed of at a facility permitted to receive such wastes. No materials removed from interceptors shall be returned to any grease interceptor, private sewer line or into any portion of the County's or HRSD's sanitary sewer system.

(3) FSE's shall dispose of yellow grease in a renderable FOG container, where contents will not be discharged to the environment. Yellow grease shall not be poured or discharged into the County's or HRSD sanitary sewer system.

(f) *Inspection of Grease Control Devices*. The Director or his designee shall have the right of entry into any FSE, during reasonable hours, for the purpose of making inspections, observations, measurements, sampling, testing or records review of the of the sanitary sewer system and GCD's installed in such building or premise to ensure that the FSE is in compliance with this section. The owner or occupant may accompany the director or his designee. Operational changes, maintenance and repairs required by the Director or his designee shall be implemented as noted in the written notice received by the FSE.

(g) *Record Keeping*

(1) FSEs shall retain and make available for inspection and copying records of all cleaning and maintenance for the previous three (3) years for all GCDs. Cleaning and maintenance records shall include, at a minimum, the dates of cleaning/maintenance records, the names and business addresses of the company or person performing each cleaning/maintenance and the volume of waste removed in each cleaning. Such records shall be kept on site and shall be made immediately available to any employee of the Department upon request.

(2) FSEs shall retain and make available for inspection and copying records of yellow grease disposal for the previous three (3) years. Yellow grease disposal logs shall include, at a minimum, the dates of disposal, name and business address of the company or person performing the disposal and the volume of yellow grease removed in each cleaning. Such records shall be kept on site and shall be made immediately available to any employee of Department upon request.

(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.5 Grease Hauler Requirements

(a) Any person collecting, pumping or hauling waste from GCDs located within the County shall be certified by the Hampton Roads GOG regionally-approved training program provided by the HRPDC.

(b) The grease hauler shall notify the locality within twenty-four (24) hours of any incident required to be reported to the Virginia Department of Environmental Quality.

(c) Grease haulers shall retain and make available for inspection and copying, all records related to grease interceptor pumping and waste disposal from businesses located in the County's wastewater service area. Records shall include waste manifests that, at a minimum, include the time, date and volume of waste removed from the device and the time, date, volume and destination of the waste disposed. These records shall remain available for a period of at least three (3) years. The Director may require additional record keeping and reporting, as necessary, to ensure compliance with the terms of this section.

(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.6 Fees

Fees provided for in this subsection are separate and distinct from all other fees chargeable by the County. Fees applicable to this subsection are as follows:

(a) There shall be no initial inspection fee. Re-inspection fees shall be in the amount of fifty dollars ($50.00) and shall be due upon invoice by the County. Such fees may be added to the FSE's public service bill.

(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.7 Compliance

The Director may require existing FSEs to modify or repair any noncompliant GCD and appurtenances as noted in the written notice received by the FSE.
(Ord. No. 12-2, 2/21/12)

Sec. 18.1-31.8 Violations and Penalties

(a) Any person who, intentionally or otherwise, commits any of the acts prohibited by this ordinance shall be liable to the County for all costs of containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the sanitary sewer system, as well as the costs of any damages or regulatory fines, that are proximately caused by such violations.

(b) Any person who intentionally or otherwise, commits any of the acts prohibited by this section shall be subject to a fine in an amount not to exceed one thousand dollars ($1,000.00) per violation. The court assessing such fines may, at its discretion, order such fines to be paid into the treasury of the County for the purpose of abating, preventing or mitigating environmental pollution.

(c) Enforcement will be in accordance with the associated Enforcement Response Plan. The County may terminate water and/or sewer service services for continuing violations of this section.

(d) In addition to any other remedy for the violation of this section, the County may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or in equity, shall be no defense to any such action.

(e) The remedies set forth in this section are cumulative, not exclusive; and it may not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.
(Ord. No. 12-2, 2/21/12)

Sec. 18.1-32 Control of prohibited wastes

(a) If wastewater containing any substances described in section 18.1-30 or 18.1-31 is discharged or proposed to be discharged into the public sewer system, the county administrator or HRSD may take any action necessary to:

(1) Prohibit the discharge of such wastewater.

(2) Require a discharger to demonstrate to the satisfaction of the county administrator that "in plant" modifications will reduce or eliminate the discharge of such substances in conformity with this chapter.

(3) Require pretreatment, including storage, facilities, or flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate this chapter. In cases where it is agreed that any waste will be accepted into the facilities of the county after receiving preliminary treatment, drawings and specifications showing all pertinent details of the methods and construction proposed to accomplish the preliminary treatment shall be submitted to the county administrator for approval. Where preliminary treatment facilities are utilized prior to discharge to county facilities, they shall be subject to periodic inspection by the county administrator and shall be maintained in good operating condition. Access shall be provided for flow measurements and sampling waste before they reach the facilities of the county. Provisions shall be made to control the rate of discharge and to shut off completely the discharge from pretreatment facilities if required.

(4) Take such other remedial action as may be deemed desirable or necessary to achieve the purpose of this chapter.

(b) If for any reason a user accidentally discharges prohibited materials or other wastes regulated by this section, the person responsible for such discharge shall immediately notify the county administrator so that corrective action may be taken to protect the system. In addition, a written report addressed to the county administrator detailing the date, time, and cause of the accidental

discharge, and corrective action taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the discharge.

(Ord. No. 12-2, 2/21/12)

Secs. 18.1-33—18.1-39. Reserved.

ARTICLE III. PRIVATE SEWAGE DISPOSAL SYSTEMS

Sec. 18.1-40. Private sewer systems—Generally.

(a) *Certain systems prohibited.* The installation of private sewer systems other than soil absorption systems approved by the latest edition of the Commonwealth of Virginia State Board of Health Sewage Handling and Disposal Regulations and the York County Sanitary Sewer Standards and Specifications are prohibited.

(b) *When soil absorption systems are permissible.* When any lot or parcel has been legally created or can be created by an otherwise approvable subdivision, and lies in an area where no public sewer which can serve the property is available, the building sewer may be connected to an approved soil absorption system if the site is determined by the health officer to be suitable for such a system to operate properly and in accordance with the provisions of this chapter

(c) *Provision of primary and secondary absorption areas.* Every lot or parcel of land proposed for development where an approvable soil absorption system is proposed shall have and provide both a primary and secondary absorption area. The secondary absorption area shall be equal in size to the primary area. Both the primary and required secondary absorption areas shall be located outside of any RPA that may apply to the property under the terms of Chapter 23.2 of the County code. The secondary absorption area shall be used only in the event the primary absorption area fails and not for the purpose of expansion of the primary absorption area in order to accommodate additions to or enlargement of, the structure or structures served by the system.

(d) *Soil absorption systems provisions for building*. Before commencement of construction of an approvable soil absorption system, the owner shall first obtain a written permit signed by the health officer. The application for such permit shall be on forms furnished by the Health Department, which the applicant shall supplement by any plans, specifications, and other information deemed necessary by the health officer. The type, capacity, location, and layout of a soil absorption system shall comply with all requirements of the Department of Health of the Commonwealth of Virginia and of this chapter. The approved permit issued by the health officer, along with any supporting data must be submitted with the application for a building permit.

(e) *Same—Inspection by health officer.* An approved soil absorption system shall not be utilized until the installation is completed to the satisfaction of the health officer. The health officer shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the health officer when the work is ready for final inspection and before any underground portions are covered.

(f) *Same —Maintenance.* The owner shall operate and maintain the soil absorption system in a sanitary manner at all times and in accordance with any state health department requirements and the requirements of this chapter including any special conditions which may have been placed on the permit by the health officer. Each septic tank and/or pumping chamber should either be pumped out and the solids removed at least once every five (5) years, be inspected by a qualified person every five (5) years and pumped if necessary, or install a filter approved by the Health Department. Documentation or other proof satisfactory to the County Administrator or his designee of compliance with the maintenance requirements of this section shall be submitted to the County Administration or his designee upon request.

(g) *Same—Correction of violations or malfunctions.* When notified by the health officer or the county of a violation of any provision of this chapter or of a malfunction, the owner of a soil absorption system

shall complete the prescribed corrective actions within sixty (60) days. Failure to make such correction shall be a violation of this chapter.

(h) *Use of private systems prohibited.* Nothing in this article shall be construed to permit the continued use of a private sewer system if connection to a public system is required by this chapter.

(Ord. No. 098-23(R), 11/18/98; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 06-32, 12/19/06)

Sec. 18.1-41. Grinder Pumps.

(a) *When grinder pumps are permissible*. Grinder pumps may be authorized in accordance with standards and regulations promulgated pursuant to Section 18.1-3 of this chapter.

(b) *Grinder Pumps - Inspection*. A grinder pump shall not be used until the certificate to operate is provided by the county or the health officer (if applicable). The county and the health officer shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the county or health officer when work is ready for final inspection and before any underground portions are covered.

(Ord. No. 098-23(R), 11/18/98)

Sec. 18.1-42. Exceptions.

(a) If an existing structure is served by a privy, soil absorption system, or other previously authorized means of sewage disposal, and is damaged by fire or any other cause in excess of fifty percent (50%) of the physical value of the structure before the damage was incurred, as determined by the building official, or if the sewage disposal facility serving the structure fails, and if there is no possibility of installing an approved soil absorption or grinder pump system meeting the requirements of this chapter and the facilities of the county are not available, the building official, if so requested by the property owner or his representative, may allow the use of a pit privy or other means of sewage disposal provided the state health department shall approve the design and location of such facilities prior to the issuance of any building permits.

(b) For temporary use in the disposal of sewage, a temporary privy or portable toilet, approved by the health department, may be used for a temporary period as prescribed by the health officer.

(Ord. No. 098-23(R), 11/18/98)

Sec. 18.1-43. Permit required.

(a) When an approvable soil absorption system or grinder pump system is planned as the method of sewage disposal to serve any lot or parcel of land, the building official shall not issue a building permit until after receipt of a permit, if required, for said system from the Health Department. Any restrictions or qualifications on such Health Department approval shall be stated on the soil absorption construction permit and on the building permit. If any such conditions are stated on the soil absorption or grinder pump system construction permit, evidence of recordation of such conditions in the Clerk's Office of the Circuit Court must also be presented to the building official prior to issuance of the building permit. The health officer shall issue such construction permit only if all requirements of this chapter are met.

(b) It shall be unlawful for any person to install or repair, have, allow, or contract to install or repair a soil absorption system in the county individually or for another person without first obtaining a permit from the Health Department. Any proposed revisions to absorption systems utilizing elevated sand mound or low pressure technology shall be designed by an engineer. Inspection and final approval of the work shall be the responsibility of the Health Department.

(Ord. No. 098-23(R), 11/18/98; Ord. No. 14-10, 6/17/14)

Secs. 18.1-44—18.1-50. Reserved.

ARTICLE IV. CONSTRUCTION AND EXTENSION OF PUBLIC SEWER SYSTEMS

Sec. 18.1-51. Standards and regulations—Generally.

The standards and regulations established pursuant to section 18.1-3 of this chapter shall be subject to and in accordance with the following:

(a) All facilities of the county shall be constructed in accordance with such standards and regulations.

(b) Where such standards or regulations are more stringent than standards or regulations promulgated by regulatory agencies of the federal government or the state, the county's shall govern. Where such standards or regulations are less stringent, federal or state standards or regulations shall govern.

(c) In the absence of applicable standards or regulations approved by the governing body or promulgated by the state, the county administrator may establish such interim standards or regulations as he deems necessary. Such standards or regulations shall be submitted to the governing body within one year after establishment for approval and shall stand until the governing body actually approves, disapproves, or modifies such interim standards or regulations.

(c) No design standards shall apply to facilities designed and approved prior to the establishment of such standards.

(Ord. No. 12-2, 2/21/12)

Sec. 18.1-52. Application, certificate to construct, inspection and payment of fees required.

(a) *Certificates to construct.* Construction of or extensions to public sewer systems shall not begin until a certificate to construct has been issued by the county administrator. The construction of building sewers which serve multiple dwellings or structures or which extend off-site shall also require a certificate to construct.

(b) *Applications*. Applications for a certificate to construct shall be submitted to the County and accompanied by a minimum of two (2) copies of plans and specifications prepared by a qualified professional engineer or land surveyor practicing within the areas of competence prescribed by section 54.1-408 et seq of the Code of Virginia together with any other relevant contract documents and a plan review fee of one-hundred and twenty-five dollars ($125.00).

(c) *Issuance*. Upon approval of the plans, specifications, and contract documents and upon payment of required inspection fees, the county administrator shall issue a certificate to construct.

(d) *Fees*. A certificate to construct shall not be issued until inspection fees in the amount of three hundred dollars ($300.00) plus two dollars and twenty-five cents ($2.25) per foot for every foot of six-inch or larger gravity sewer installed and two dollars and twenty-five cents ($2.25) per foot for every foot of two-inch or larger force main installed and two dollars and twenty-five cents ($2.25) per foot for every foot of vacuum sewer installed have been paid. In the case of building sewers required to be inspected pursuant to the provisions of section 18.1-24 of this chapter, an inspection fee shall be charged in the amount of two hundred dollars ($200.00) plus two dollars and twenty-five cents ($2.25) per foot for every foot of building sewer installed. The fees set forth in this subsection may not be reduced and are not refundable.

(e) *Inspection*. The installation of public sewer systems and building sewers required to have a certificate to construct shall be inspected by the county and no part of such facilities shall be covered or obscured prior to inspection and approval by the county.

(f) *Service laterals*. Service laterals, as approved, shall be provided by the applicant and installed at the time of construction.

(g) *Connection to system regulated*. No connection between the existing public sewer system and new sewer construction shall be made until all required connection fees have been paid and all such construction has been approved by the county.

(Ord. No. O97-35, 12/17/97; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 07-22, 12/18/07; Ord. No. 12-2, 2/21/12; Ord. No. 14-10, 6/17/14)

Sec. 18.1-53. Construction and extension.

(a) The governing body may in its discretion extend the public sewer system to areas of the county which have not been previously served.

(b) The governing body may permit the extension of the public sewer system by a developer. Public sewer extensions serving less than three connections may be approved administratively by the county administrator or his designee subject to the execution of a sewer extension agreement approved to form by the County Attorney. Extensions serving three or more connections shall be at the request of the developer and shall be made pursuant to a contract authorized by the governing body, executed by the county administrator on behalf of the county, and approved as to form by the county attorney between the developer and the county. The contract shall include terms providing for the amount of all fees to be paid to the county and providing that the connection fee shall be paid prior to the issuance of any building permit. The contract shall also set forth any cost-sharing and provide that, upon completion and approval of the construction of such facilities, they shall become the property of the county. Such contracts shall be executed by all parties prior to the issuance of a certificate to construct. The provisions of this subparagraph apply to extensions which have not been approved by the county on the date of adoption of this section. The governing body may authorize an extension based on preliminary fee and cost-sharing information, and may authorize the County Administrator to execute agreements required by this section at some later time, provided however: (1) that the number of connections to the system approved by the governing body shall not later be increased more than (10%) without authorization of the governing body; and (2) that the standard connection fees, credits, and other fees and policies in effect at the time of execution of the agreement, as established by the governing body, shall be the basis for computing such fees.

(c) All contractors installing facilities of the county shall be approved by the county.

(d) For all construction under paragraph (b) above the location, type, and size of any facilities must comply with county standards and with plans established by the county for future sewer construction. Except as otherwise provided in section 18.1-54, the entire expense of construction shall be borne by the developer.

(Ord. No. 02-6(R-1), 7/16/02; Ord. No. 14-10, 6/17/14)

Sec. 18.1-54. Cost sharing in public sewer construction.

(a) It is the intent of this section to discourage the development of facilities outside designated primary service areas and to provide some assistance to a developer when facilities are constructed in complete accordance with public sewer phasing and construction plans. Recognizing that the developer will incur a certain level of expense to properly bring sewer service to a development, the intent is not to reimburse the developer for that expense. In all cases the developer must make an economic decision. The purpose of this section is to provide a degree of certainty to the cost of sewer service and to set forth those conditions under which the county will permit private construction of public sewer systems.

(b) Upon request and under certain conditions, the county may share in the cost of providing public sewer when application for construction is made by a developer. The extent to which the county participates will be based on certain factors designed to maximize and channel limited public funds for sewer construction into those areas where sewer can be provided most effectively to promote the public health and welfare. Those factors are:

(1) The extent to which the sewer facilities are oversized at the request of the county to provide future use capacity.

(2) The extent to which the proposed development is within or outside of a designated primary service area.

(3) The extent to which the facilities consist of system facilities as opposed to local facilities.

(c) Within the limits of funds available for sewer construction, the county will share costs if requested by the developer as follows:

(1) The total cost of local facilities shall in all cases be borne by the developer.

(2) When proposed development is to be located within a primary service area, the county will pay the additional construction cost of installing or oversizing system facilities required by the county for future use capacity or other needs. The county may offset its cost by deducting any system facility connection fees due to it from the developer. The county share shall be the difference between the estimated cost of the facilities necessary for future use and the cost of local facilities and system upgrades necessary to serve the development. The developer shall bear all design costs. The estimated costs shall be based upon current unit charges for sewer construction and shall be agreed to between the developer and the county.

(3) When proposed development is to be located outside a primary service area, the cost of installing or oversizing system facilities for future use capacity or other needs shall be borne by the developer. In addition to the cost of construction, the developer will be liable for a connection charge at the time of connection of the extension to public sewer facilities. Such fee shall be equal to the total initial connection fees due from the development without credit or reduction for the construction of local or system facilities or other costs paid by the developer.

(4) If no primary service areas have been established by the governing body, all proposed development shall be deemed to be within a primary service area.

(d) If sufficient county funds are not available for sewer construction to enable the county to contribute fully as set forth in subsection (c) 2), then other sums may be negotiated on a case-by-case basis. In any event, the final sum to be contributed by the county to the construction and/or the total amount of connection fees due to the county, shall be set forth in the contract required by section 18.1-53.

(e) Nothing in this section is to be construed to prohibit or restrict the governing body from extending or participating in the extension of the facilities of the county at the county's cost or on a different cost sharing basis than set forth in this section should the governing body determine that such an arrangement is in the county's best interest and furthers the goals of economic development or providing affordable housing opportunities.

(Ord. No. 02-6(R-1), 7/16/02)

Secs. 18.1-55—18.1-60. Reserved.

ARTICLE V. PUBLIC SEWER CONNECTIONS AND CONNECTION FEES

Sec. 18.1-61. When connection or payment deemed made.

Connections shall be deemed made under this article when all fees have been paid and actual connection, or an arrangement approved by the county for connection, has been made. Fees shall be deemed paid when actually paid or when arrangements for payment have been made through a contract with the county.

Sec. 18.1-62. Connection requirements; timing; and fees.

(a) The owner of any premises having access to facilities of the county, the construction of which facilities was completed after January 1, 1992, shall be required to connect to the public sewer

system. Connection fees shall be paid and connection made within ninety (90) days and connection made within one-hundred twenty (120) days of notification that service exists. The applicable fee shall be the total initial connection fee set forth in section 18.1-64 of this chapter.

(b) Any owner failing to connect to the facilities of the county as required by paragraph (a) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than fifty dollars ($50). Each day that such failure continues shall constitute a separate offense. In addition, such owner shall be required to pay the regular connection fee as set forth in section 18.1-64 of this chapter.

(c) The owner of any premises having service available by means of facilities of the county, the construction of which was completed after January 1, 1992, may connect to the public sewer system or voluntarily elect to pay the applicable connection fee and not connect. If the connection is made or arrangement for payment made within ninety (90) days of notification that service exists, the fee shall be the same fee as that imposed on owners who connect under paragraph (a) of this section. After such ninety-day period, the owner shall be required to pay the total regular connection fee.

(d) The owner of premises having access to, or service available by, facilities of the county, the construction of which was completed prior to January 1, 1992, may connect to such facilities or voluntarily elect to pay the applicable connection fee and not connect. If connection or payment is arranged or made, the fee shall be the total initial connection fee set forth in section 18.1-64 of this chapter.

(e) The connection requirements, fees, and times set forth in this section shall not apply where the county administrator has determined that public sewer service is not available to abutting property due to the nature of, or limitations on, the facilities of the county. For purposes of this section, property which abuts a public road owned and maintained by the Commonwealth of Virginia or the county and which is separated from the facilities of the county by the surfaced area of such road, shall be deemed not to have public sewer available unless a lateral has been installed under the pavement which can serve the property.

(f) When extensions of the facilities of the County are made pursuant to Section 18.1-53(b), the owner of any premises having access to, or service available by, the facilities of the County and having, at the time of the extension, an operating soil absorption system, which has been inspected and approved by the Health Department, may connect to such facilities and pay the applicable initial connection fee as set forth in Section 18.1-64 of this chapter at the time the owner elects to connect. Should the owner of such premises receive written notification from the Health Department of a failing system, the provisions in Section 18.1-62(a) and (b) shall apply and the applicable time limits shall begin to run on the date of receipt of such notice.

(Ord. No. O97-35, 12/17/97; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 14-10, 6/17/14)

Sec. 18.1-63. Application for connection; permit required.

(a) No person shall connect any premises with the facilities of the county without first obtaining a permit to do so from the county administrator. The owner of the premises, or such owner's authorized agent, shall make application therefor on forms furnished by the county. All applications shall clearly indicate the activities on the premises for which the service to be rendered by the public sewer system will be used.

(b) No permit for connection shall be issued until all required fees have been paid and the manner of connection (including the qualifications of the person making the connection) have been approved.

(c) No building permit for a structure that will connect to the public sewer facilities of the county shall be issued until the construction of the public sewer facilities of the county has been completed and approved. Prior to the completion of construction, a permit may be issued if:

(1) In the case of residential buildings, the county administrator determines that completion of construction of the required public sewer facilities to county standards is probable within ninety (90) days; or,

(2) In the case of commercial or industrial buildings, the county administrator determines that completion of construction of the required public sewer facilities to county standards is probable within one hundred eighty (180) days.

(3) In the case of residential buildings that are in the service area of a County Sewer Extension Project, the county administrator determines that completion of construction of the required public sewer facilities to the county standards is probable within one hundred eighty (180) days.

(Ord. No. 02-6(R-1), 7/16/02)

Sec. 18.1-64. Connection fees established.

Any person required or desiring to connect to the facilities of the county shall, unless otherwise provided in this chapter, pay the connection fees set forth in the schedule which follows as a part of this section. Such fees shall be paid at such time as required by this chapter. The connection fee to be paid shall be the indicated total initial fee or total regular fee as required. The connection fee shall not include the actual cost of connection which shall be borne by the applicant. Existing commercial or industrial connections may upgrade the connection size by paying the initial connection fee applicable to the larger size connection. A credit will be given for connection fees previously paid. Columns entitled "Local Facility Credit" and "System Facility Charge" are used only for the purposes referred to in other sections of this chapter:

CONNECTION FEE SCHEDULE [18.1.64(a)]

Type of Connection		*Initial Connection Fee*			*Regular Connection Fee*		
		(a) Local Facility Credit	***(b) System Facility Charge***	***(c) Total Initial Fee***	***(d) Local Facility Credit***	***(e) System Facility Charge***	***(f) Total Regular Fee***
A. Single-family Detached Dwelling		$500	$3,200	$3,700	$3,025	$5,600	$8,625
B. All Other Facilities: Water Meter Size[1] (Inches)							
Larger Than	But Not Larger Than						
0	-	500	3,200	3,700			8,625
_	¾	1,000	4,600	5,600			10,075
¾	1	1,300	8,000	9,300			15,825
1	1½	2,000	16,500	18,500			23,000
1½	2	4,700	25,000	29,700			34,500
2 (Including Compound Meters)		(c)/5	4(c)/5	$150 for each gallon per minute of water meter			(c)+17,250

[1]Those facilities where a large portion of the flow through the water meter is to be used in a process, other than in an agricultural process, which does not return that portion of the flow to the facilities of the county shall have their tap fee based on the meter size determined by AWWA Manual M-22, 1975 (Sizing Meter Service Lines and Meters) necessary to handle those flows which are returned to the facilities of the county. Fire service meter size shall not be considered in determining the connection fee.

			capacity as determined by American Water Works Association Standards			

(b) If any facility whose connection fee is based on a water meter size is not connected to a metered water system, the county administrator may require the installation of a meter or may make a reasonable estimate of the meter requirements for the facility for the purpose of establishing the appropriate connection fee.

(c) The provisions of this section shall not apply to premises which have paid the applicable connection fee or arranged to pay the applicable connection fee through agreement with the county prior to the date of adoption of this section.

(d) A credit of $500 shall be allowed against the above fees when a grinder pump is installed to service an existing premise as part of a County financed sewer extension project in accordance with regulations adopted pursuant to Section 18.1-3.

(e) Notwithstanding the provisions of paragraph (a) of this section, the connection fees established by the governing body in 2007 with the adoption of chapter 18.1 shall apply to any development or site plan having final approval from the county prior to March 1, 2012. In addition to these developments, the connection fees adopted in 2007 shall also apply for any project being financed by the county for which the preliminary design has started by March 1, 2012. For such projects, the regular connection fee shall be that fee which is in effect at the time of connection.

(f) Property owners may prepay the initial sanitary sewer connection fee for those properties that are included in a service area defined in the Utilities Strategic Capital Plan. Upon payment of the initial connection fee, the provisions of Section 18.1-72(a) will apply.

(Ord. No. O97-35, 12/17/97; Ord. No. 098-9, 7/15/98; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 07-22, 12/18/07; Ord. No. 12-2, 2/21/12)

Sec. 18.1-65. Reduction in fees due to construction by developer.

When public sewer facilities are constructed by developers pursuant to section 18.1-53(b) of this chapter, the following reductions to total initial connection fees shall apply:

(a) When all local facilities are constructed by the developer, the developer shall receive a reduction in the total connection fee equal to the total local facilities credit component which would otherwise be due.

(b) When a developer constructs facilities to a premises and the construction includes system facilities, in addition to any reductions under paragraph (a) of this section, the developer shall receive a reduction in the system facility connection fee component, which would otherwise be due, equal to the estimated cost increase for construction of system facilities required by the county based on current charges, as set forth in section 18.1-54(c)(2) of this chapter. Reductions under this subsection may be prorated among all connections in the development or the developer may apply them to the first fees due whichever is provided for in the agreement executed pursuant to section. 18.1-53(b). Developers who have had offsite or oversizing credits calculated by the county for their developments and have completed or substantially completed construction of such offsite or oversized facilities prior to the effective date of this chapter, may have such credits applied under the provisions of former chapter 18 of the Code against the system facility charges for the units in the development for a period of five (5) years beginning with the effective date of this chapter.

(c) Total reductions in connection fees under subparagraphs (a) and (b) of this section shall not exceed the total connection fee due.

(d) Nothing in this section shall be construed to reduce in any way the connection charge imposed by section 18.1-54(c)(3) for the connection of premises located outside of primary service areas.

(Ord. No. 12-2, 2/21/12)

Sec. 18.1-66. Installment payment of connection fees.

(a) Owners of single family detached dwellings having access to facilities of the county may elect to pay all or part of the connection fee in installments. The connection fees provided for in this article may be paid in installments pursuant to a contract the form of which has been approved by the county attorney. Such contracts shall provide for not more than twelve (12) bimonthly installments and shall provide for interest on the unpaid balance at ten percent (10%) per annum. A down payment may be made, but it shall result in a remaining balance which is a multiple of one hundred dollars ($100.00). The first bimonthly payment will be billed at the end of the next full utility billing cycle following execution of the installment contract by the owners and will be due within thirty (30) days of the billing date. The unpaid principal may be paid in full without penalty at any time.

(b) Owners for whom connection is not required, but who choose to pay the applicable connection fee, may contract to pay all or part of such fee in installments. Such contracts, which shall be approved as to form by the county attorney, shall provide for not more than eighteen (18) bimonthly installments and shall provide for interest on the unpaid balance at ten percent (10%) per annum. A down payment may be made, but it shall result in a remaining balance which is a multiple of one hundred dollars ($100.00). The first bimonthly payment will be billed at the end of the next full utility billing cycle following execution of the installment contract by the owner and will be due within thirty (30) days of the billing date. The unpaid principal may be paid in full without penalty at any time.

(c) If any installment is not paid when due, the entire remaining balance shall be immediately due and payable. In the cases where initial connection fees were charged pursuant to section 18.1-62(a) or (c) of this chapter, the initial connection fee shall be forfeited and the regular connection fee, against which the previously paid principal shall be credited, shall be immediately due and payable.

(d) This section shall not apply to connection fees due from developers who extend public sewer pursuant to section 18.1-53 (b) of this chapter.

(Ord. No. 14-10, 6/17/14)

Sec. 18.1-67. Notice of construction completion.

When service is hereafter made available to any premises, the county will notify property owners by first class mail, postage paid, addressed to the owner of the property at the mailing address shown on the current land book of the county. The county administrator shall prepare an affidavit, or affidavits, showing the date of mailing and the names and addresses of all property owners to whom such notice is mailed. The appearance of the correct name and address as shown on the land book of the county on such affidavit(s) shall be all that is required to mark the beginning of the applicable time period during which initial connection fees apply. The county shall not be required to prove that such notice was actually received by any individual property owner.

(Ord. No. O97-35, 12/17/97)

Secs. 18.1-68—18.1-70. Reserved.

ARTICLE VI. RATES AND BILLING PROCEDURES

Sec. 18.1-71. Power to establish rates and enforce payment.

(a) The governing body is vested with the authority to make and fix rates at which service shall be supplied to customers of the public sewer system and to collect, require, and enforce the payment thereof by all remedies provided for by law.

(b) The rates fixed by the governing body shall be fair and just and shall take into consideration the cost of construction, maintenance, extension, operation, and administration of the public sewer system, including the cost of necessary insurance, interest and principal on bonds, and any other cost or expense growing out of the operation of, or appertaining to, the public sewer system.

Sec. 18.1-72. Rates—Generally; effective May 1, 2014.

(a) *Payment—Generally*. The service charges set forth in this section shall be paid by all users of the public sewer system beginning May 1, 2014. For new development, user charges shall commence with the issuance of a certificate of occupancy. Nonusers owning premises having access to the facilities of the county or service available shall pay service charges equal to sixty-five percent (65%) of the service charges set forth in this section having agreed to do so in return for the benefit of paying the initial connection fee.

(b) *Bimonthly rate for single-family residential equivalents*. A bimonthly service charge of forty-eight dollars and zero cents ($48.00) shall be paid to the county by single-family residential equivalents. A single-family residential equivalent is a mobile home, an apartment, a single-family detached dwelling, a townhouse, or any other unit used to house a single family on a full-time basis.

(c) *Bimonthly rates for users other than single-family residential equivalents*. If water consumption is measured in cubic feet, a bimonthly service charge per meter of three dollars and thirty-three cents ($3.33) per one hundred (100) cubic feet or a minimum charge of $20.00 shall be paid to the county by users other than single family residential equivalents. If water consumption is measured in gallons, a bimonthly service charge per meter of four dollars and forty-five cents ($4.45) per one thousand (1,000) gallons or a minimum charge of $20.00 shall be paid to the county by users other than single-family residential equivalents. Service charges, unless otherwise set forth herein, shall be based upon water consumed on the premises as measured by the meter or meters used for such purpose. In any case where the premises are not connected to a water system for which water consumption figures satisfactory to the county are available, the bimonthly service charge shall be forty-eight dollars and zero cents ($48.00), plus seven dollars and twenty-five cents ($7.25) for each employee.

(d) *Reduction in charges for users other than single-family residential equivalents*. Premises other than single-family residential equivalents, which do not discharge the entire volume of water into a public sewer, shall be allowed a reduction in charge, provided the owner installs, at his expense, a meter or meters satisfactory to the county for measuring or determining the volume of water consumed and not discharged, or the volume of waste discharged into the public sewer.

(e) *Authority to require installation of measuring devices*. The county reserves the right to require the installation of facilities for measuring or determining the volume of water consumed or the volume of waste discharged into the sewer.

(f) *Commencement of service charges*. Service charges imposed by this section shall commence on the first day of the immediately succeeding billing period in the case of new connections to the public sewer system and on the first day of the immediately succeeding billing period after ownership is conveyed to the County in the case of existing connections.

Rates—Generally; effective March 1, 2015.

(a) *Payment—Generally*. The service charges set forth in this section shall be paid by all users of the public sewer system beginning March 1, 2015. For new development, user charges shall commence with the issuance of a certificate of occupancy. Nonusers owning premises having access to the facilities of the county or service available shall pay service charges equal to sixty-five percent (65%) of the service charges set forth in this section having agreed to do so in return for the benefit of paying the initial connection fee.

(b) *Bimonthly rate for single-family residential equivalents*. A bimonthly service charge of fifty-two dollars and zero cents ($52.00) shall be paid to the county by single-family residential equivalents. A single-family residential equivalent is a mobile home, an apartment, a single-family detached dwelling, a townhouse, or any other unit used to house a single family on a full-time basis.

(c) *Bimonthly rates for users other than single-family residential equivalents*. If water consumption is measured in cubic feet, a bimonthly service charge per meter of three dollars and sixty-one cents ($3.61) per one hundred (100) cubic feet or a minimum charge of $20.00 shall be paid to the county by users other than single family residential equivalents. If water consumption is measured in

gallons, a bimonthly service charge per meter of four dollars and eighty-two cents ($4.82) per one thousand (1,000) gallons or a minimum charge of $20.00 shall be paid to the county by users other than single-family residential equivalents. Service charges, unless otherwise set forth herein, shall be based upon water consumed on the premises as measured by the meter or meters used for such purpose. In any case where the premises are not connected to a water system for which water consumption figures satisfactory to the county are available, the bimonthly service charge shall be fifty-two dollars and zero cents ($52.00), plus seven dollars and fifty cents ($7.50) for each employee.

(d) *Reduction in charges for users other than single-family residential equivalents*. Premises other than single-family residential equivalents, which do not discharge the entire volume of water into a public sewer, shall be allowed a reduction in charge, provided the owner installs, at his expense, a meter or meters satisfactory to the county for measuring or determining the volume of water consumed and not discharged, or the volume of waste discharged into the public sewer.

(e) *Authority to require installation of measuring devices*. The county reserves the right to require the installation of facilities for measuring or determining the volume of water consumed or the volume of waste discharged into the sewer.

(f) *Commencement of service charges*. Service charges imposed by this section shall commence on the first day of the immediately succeeding billing period in the case of new connections to the public sewer system and on the first day of the immediately succeeding billing period after ownership is conveyed to the County in the case of existing connections.

(Ord. No. O97-35, 12/17/97; Ord. No. 02-6(R-1), 7/16/02; Ord. No. 07-22, 12/18/07; Ord. No. 12-2, 2/21/12; Ord. No. 14-10, 6/17/14)

Sec. 18.1-73. Rates not prorated.

When title to premises is conveyed from one owner to another, the service charges for the billing period in which the premises is conveyed shall not be prorated by the county and shall become the obligation of the owner of the property on the first day of the billing period in which service was rendered.

Sec. 18.1-74. HRSD charges.

Facilities of the county collect and deliver sewage to HRSD, which treats and disposes of the waste. In addition to the charges prescribed in this chapter, HRSD levies charges to cover the costs of treatment and disposal of sewage. Such charges may be billed directly by HRSD or in conjunction with county charges.

Sec. 18.1-75. Responsibility of owner for charges.

Where any premises, whether supplied by single or multiple service, is rented to one (1) or more tenants, service charges shall be charged to and paid by the owner of the premises who alone shall be deemed the agent for the entire premises and who shall sign the authorization for service.

(Ord. No. 14-10, 6/17/14)

Sec. 18.1-76. New service; deposit required.

No new or reinstated service shall be supplied to any applicant until payment of a cash deposit equal to the estimated charge for one (1) bimonthly billing period. The deposit shall be held by the county until such applicant ceases to be served by the system at which time any portion of such deposit due shall be returned without interest to the applicant by whom it was made, provided that all unpaid charges and fees shall be deducted from the amount of the deposit. If the deposit is not sufficient to pay all charges and fees due, the remaining balance shall be subject to normal collection procedures of the county. A deposit shall not be required for single family residential equivalents as defined in section 18.1-72(b) or its successor sections except in the case of rental units which are master metered as one (1) connection.

(Ord. No. 02-6(R-1), 7/16/02; Ord. No. 14-10, 6/17/14)

Sec. 18.1-77. Water not to be supplied until written application for sewer and deposit received.

No water purveyor within the county shall provide or transfer service to a new customer, other than single-family residential equivalents, served by facilities of the county until such customer produces evidence that the deposit, if any, required by section 18.1-76 of this chapter has been made.
(Ord. No. 02-6(R-1), 7/16/02; Ord. No. 14-10, 6/17/14)

Sec. 18.1-78. Previous balance to be paid prior to new service or transfer of service.

Any person owing a balance for sewer service previously furnished, regardless of the length of time the same has been owing, shall not be furnished new sewer service until all amounts in connection with past sewer services furnished have been paid in full.

Sec. 18.1-79. When bills to be paid; overdue accounts.

(a) Sewer service charges shall be due upon receipt of the statement rendered by the county and shall be considered delinquent thirty (30) days following the billing date. A late charge of ten percent (10%) of the amount due or ten dollars ($10.00), whichever is greater, shall be added to all service charges when they are first considered delinquent. Interest at the rate of ten percent (10%) per annum shall be charged on the aggregate of the payment and penalty due beginning with the date the penalty is applied. If any bill shall not be paid within forty-five (45) days of the billing date, the water supply to the premises shall be discontinued as provided for in section 18.1-82 of this chapter.

(b) In lieu of discontinuing water service as provided for in paragraph (a) of this section, the county administrator may enter into agreements by which the owners of the premises for which bills for service are unpaid may be allowed to pay the amount owed including the penalty and interest owed in installment payments, such agreements to contain such other reasonable terms and conditions as may be necessary to ensure payment, and to be approved as to form by the county attorney. Such agreements shall provide that late payment of any installment payment or a failure to pay current amounts due shall result in immediate discontinuance of the water supply to the premises.

(c) Any unpaid sewer connection fee or any installment thereof, or any unpaid service charge, together with any penalty and interest, shall become a lien superior to the interest of any owner, lessee, or tenant, and next in succession to county taxes on the real estate benefited by any such facilities. Such lien may be discharged by payment to the county of the total amount of such lien, together with penalty and interest accrued thereon to the date of payment. If any such charges remain unpaid for a period of sixty (60) days from the billing date, the county administrator shall certify such charges as being unpaid to the clerk of the circuit court who shall docket the same in the appropriate lien books of the circuit court.
(Ord. No. 07-22, 12/18/07; Ord. No. 12-2, 2/21/12; Ord. No. 14-10, 6/17/14)

Sec. 18.1-80. Failure to receive bill no excuse.

Failure to receive a bill for service charges shall not exempt any person from liability for payment of bills or from the provisions of this chapter. It shall be the responsibility of the owner, occupant, or consumer to notify the county of the failure to receive a bill for any reason and to advise the county whenever it is suspected that charges for services used are improperly billed.

Sec. 18.1-81. Charge to be assessed for checks returned from bank for insufficient funds or other reasons.

When a check received in payment of service charges, or in payment of deposits, connection fees, or other fees is returned by the bank for insufficient funds or any other reason, a service charge of thirty-five dollars

($35.00) shall be made for each returned check. This charge is to defray the administrative costs to the county of handling and processing returned checks.
(Ord. No. O97-35, 12/17/97; Ord. No. 07-22, 12/18/07; Ord. No. 14-10, 6/17/14)

Sec. 18.1-82. Discontinuing water service for nonpayment of service charges.

(a) Water service may be discontinued by or at the request of the county for any of the following reasons until the defects or faults have been corrected.

(1) For nonpayment of service charges as provided in section 18.1-79 of this chapter.

(2) For violation or noncompliance of any provision of this chapter or with any State Health Department regulation or requirement.

(b) When water service is to be discontinued, except in emergency situations involving an imminent risk to property or public health, in which event no notice shall be necessary, ten (10) days' written notice shall be given to the owner, occupant, or agent of the owner. The notice shall state the reason for the proposed termination and shall inform the person notified that a hearing to protest the termination may be had before the county administrator during the ten (10) day notice period if requested in writing by the owner, occupant, or agent of the owner. If a hearing is requested, the county administrator shall conduct it immediately and shall enter a written decision within twenty-four (24) hours of the hearing. Water service shall be terminated unless the owner, occupant, or agent presents clear and convincing evidence that violation or nonpayment has not occurred or unless such termination would impose a serious risk of harm to the occupants of the premises and not merely an inconvenience. The decision of the county administrator shall be final.

(c) If water service is discontinued as provided in this section, in addition to any charges which may be imposed by the water purveyor, a fee of twenty-five dollars ($25.00) shall be payable to the county for administrative expenses.

(d) When water service has been discontinued, the health department shall be notified and service will be renewed only when the conditions for which such service was discontinued are corrected and all fees and charges have been paid.
(Ord. No. 07-22, 12/18/07)

Sec. 18.1-83. Adjusting of bill for inaccurate water meter.

Upon presentation of satisfactory evidence by the user that water meter readings upon which any service charge was based were inaccurate, the county shall adjust the service charge to reflect the inaccuracy of the water meter reading.

CODE OF THE COUNTY OF YORK

Chapter 18.2

SOLICITATIONS

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*Chapter 18.2 established by Ord. No. 12-17(R), adopted November 20, 2012

ARTICLE I. GENERAL

Sec. 18.2-1. Definitions.

(a) For the purposes of this article, the following terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

County: The County of York, Virginia.

Person: The word “person” shall mean any individual, organization, trust, foundation, association, partnership, corporation, society or other group or combination acting as a unit.

Sale, sell and *sold:* The words “sale”, “sell” and “sold” shall all mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

Sheriff: The Sheriff of the County of York or a member of his staff to whom he may delegate his duties under this article.

Solicit and *solicitation:* The words “solicit” and “solicitation” shall mean to go from one place of human habitation to another in the county carrying, conveying or transporting goods, wares or merchandise for the purpose of exposing, or offering the same for sale, or taking or attempting to take orders for sale of goods, wares or merchandise, subscriptions, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed, whether or not responding to appointments prearranged by telephone, telegraph, correspondence or other means of communication. A solicitation shall be deemed to occur when and at the place the contact is made to induce the recipient to go elsewhere, whether or not the person contacted actually goes to the other location.

Solicitor: The word "solicitor" shall mean any person who engages in the act of solicitation.

(b) *Exceptions.*

The term "solicitor" as used in this Chapter does not include:

(1) Persons selling, offering for sale, or soliciting orders for fresh farm food products, including but not limited to, vegetables and dairy products;

(2) Persons delivering, selling, offering for sale, or soliciting orders for newspapers;

(3) Persons who visit residential premises at the request or invitation of the owner or occupant thereof;

(4) Route deliverymen who make deliveries to regular customers and whose solicitation is only incidental to their regular deliveries;

(5) Persons engaged in canvassing for or on behalf of political candidates, or referenda;

(6) Persons 18 years of age or under who solicit for services to be personally performed by them, where such work is in connection with the employer’s home including but not limited to lawn mowing and landscape maintenance, leaf raking, and snow and ice removal, but not services in connection with the employer’s business, trade or profession;

(7) Persons collecting or attempting to collect a payment due from a purchaser;

(8) Persons licensed by the Commonwealth of Virginia pursuant to Title 38.2 (Insurance) of the *Code of Virginia* or pursuant to Chapter 21 of Title 54.1 (Professions and Occupations) of the *Code of Virginia*; or

(9) Members of any nonprofit religious, civic or charitable organization who have means of identification provided by such organization.

Sec. 18.2-2. Prohibited acts.

(a) It shall be unlawful for any person to act as a solicitor, without first securing a solicitor's permit from the Sheriff.

(b) It shall be unlawful for any solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of soliciting at any residence, dwelling or apartment at which a sign bearing the words "No Peddlers or Solicitors" or words of similar import indicating that such persons are not wanted on said premises, is painted, affixed or otherwise exposed to public view.

(c) It shall be unlawful for any solicitor to solicit between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

(d) It shall be unlawful for any solicitor to fail to disclose to the prospective buyer, upon request, his name and the name of the company, product or organization he represents, and if requested so to do, to leave the premises immediately. Any solicitor who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, shall be deemed guilty of a class 2 misdemeanor.

(e) It shall be unlawful for any solicitor to make any assertion, representation or statement of fact which misrepresents the purpose of his call, or use any plan, scheme, or ruse which misrepresents such purpose in the course of carrying on the activity for which the permit is granted.

(f) It shall be unlawful for any solicitor to fail to provide, at the request of the purchaser, a written receipt, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment.

(g) It shall be unlawful for any person issued a permit pursuant to this Chapter to use or exploit the fact of being issued a permit so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by this County. Permitting does not imply endorsement by York County.

(h) It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this Chapter.

(i) It shall be unlawful for any solicitor to conduct himself in a disorderly or unlawful manner.

Sec. 18.2-3. Record.

The Sheriff shall keep a record of all permits issued under this Chapter for a period of five (5) years.

Sec. 18.2-4. Conditions.

A solicitor's permit shall be issued subject to all conditions set forth in this Chapter.

Sec. 18.2-5. Orders to be in writing, etc.

All orders taken by the holder of a solicitor's permit issued under this Chapter shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and include a statement of the buyer's rights and a notice of cancellation which comply with the provisions of the Virginia Home Solicitation Sales Act (*Code of Virginia*, Chapter 2.1 of Title 59.1) A copy of such order shall be given to the purchaser.

Sec. 18.2-6. Places where solicitation prohibited.

Solicitation for which a permit is required under this Chapter shall be prohibited in the county at the following locations:

(a) Upon any property owned or controlled by the county or by the County School Board of York County, including, but not limited to public buildings; public parking lots owned or under the control of the county; property owned by the County and leased to the Economic Development Authority of York County and developed and used for commercial retail development and known as Riverwalk Landing in Yorktown, and parks and playgrounds owned by the county.

(b) Within ten feet of any handicapped parking space or access ramp.

Sec. 18.2-7. Interference with use of streets.

No holder of a solicitor's permit issued under this Chapter shall sell, distribute or circulate literary material or canvass or solicit orders for goods or merchandise or carry on any other activity of a solicitor as defined in section 18.2-1 from pedestrian or vehicular traffic on or adjacent to any street within the limits of the county in such manner as will interfere with the normal and usual use of such street.

Sec. 18.2-8. Penalties.

The violation of any provision of this Chapter shall be punishable as a class 1 misdemeanor.

Sec. 18.2-9. Severability.

If any part, section, subsection, sentence, clause or phrase of this Chapter is, for any reason, declared to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect or impair the constitutionality or validity of the remaining portions hereof.

Secs. 18.2-10—18.2-20. Reserved.

ARTICLE II. PERMITS

Sec. 18.2-21. Permits required; surrender of revoked or suspended permits.

It shall be unlawful for any solicitor to engage in such business or act within the meaning and application of this Chapter within the County without first obtaining a permit therefor in compliance with the provisions of this Article. Any permit issued pursuant to this Chapter shall remain the property of York County, Virginia, and upon written notification from the Sheriff, any person who has been issued a permit which has been suspended or revoked shall surrender and return that permit to the Sheriff.

Sec. 18.2-22. Possession of permit and copy of permit to be provided.

The holder of a solicitor’s permit issued under this chapter shall have his solicitor’s permit in his possession and openly displayed at all times and shall exhibit such permit at any time upon request by any law enforcement officer of the County, by any purchaser, or by any person being solicited. It shall be unlawful for any person required to be issued a permit by this Chapter to refuse to exhibit to a prospective purchaser, purchaser, or to the Sheriff that permit after being requested to do so.
(Ord. No. 16-2, 4/21/16)

Sec. 18.2-23. Application for permit.

(a) All applications for permits and renewals thereof required by this Chapter shall be made in person, on forms provided by the Sheriff. The applicant shall provide the following information, if applicable, under oath:

(1) Pertinent personal data requested, including name, local and permanent home address, and business address. The applicant must corroborate this information by producing some form of identification, with photograph, issued by a government agency and at least one (1) other means of identification.

(2) Description of applicant's physical condition.

(3) Two copies of a photograph of the applicant, taken within sixty (60) days immediately prior to the date of filing of the application, which picture shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(5) A brief description of the nature of the business and the goods to be sold or services to be performed, or in the case of solicitation to induce attendance at sales presentations, the location where the sales presentation will be made and the product or products offered for sale.

(6) The name and address of the entity for which solicitations are being sought, if other than for the applicant’s employer, together with credentials establishing the authority to solicit on such entity’s behalf.

(7) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor, together with a signed authorization for the Sheriff to conduct a criminal background check of the applicant.

(8) The approximate length of time the applicant intends to do business in the County.

(9) If a vehicle is to be used, a description of the same, together with the registration and license number or other means of identification.

(10) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced; where such goods or products are located at the time such application is filed; and the proposed method of delivery.

(11) The names of at least two (2) persons who will certify as to the applicant's good character and business responsibility or in lieu of the names of references, such other available evidence as will enable the Sheriff to evaluate properly such character and responsibility.

(12) Any other permits or licenses required under other applicable County or state laws or regulations to enable the applicant to peddle or solicit in the manner or location indicated in his or her application.

Sec. 18.2-24. Fee.

Every applicant for a permit pursuant to this Chapter shall first pay the Sheriff the sum of Twenty Dollars ($20.00) to cover processing and the costs of administration prescribed by this Article. This fee shall not be refunded to the applicant in the event that a permit is refused or revoked.

Sec. 18.2-25. Service of process.

Before any permit shall be issued under this article, there shall also be filed with the Sheriff an instrument in writing, signed by the applicant under oath, nominating and appointing the Sheriff his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on the behalf of such applicant, and service of summons in any action brought upon the applicant's bond shall be deemed made when served on the Sheriff.

Sec. 18.2-26. Investigation of applicant.

The Sheriff shall have an investigation made of the applicant. A confidential record of the investigation shall be kept on file by the Sheriff and be made available to the York County Board of Supervisors if necessary to the York County Board of Supervisor's consideration of an appeal of a denial of a license or renewal thereof. Such record shall also be made available to the applicant upon his request.

Sec. 18.2-27. Issuance and denial.

(a) Except for any action taken pursuant to Paragraphs (b) of this Section, the Sheriff shall issue the applicant a permit within fifteen (15) days following the date of the filing of a permit application which is completed in proper form and accompanied by the fee required in this Article. Such permit shall be dated and signed by the Sheriff.

(b) The Sheriff may, after investigation and finding that the health, safety and welfare of the public so demand, refuse to issue a permit to an applicant for reasons including, but not limited to, the following:

(1) Conviction of any felony within the five (5) years immediately preceding the date of filing of the application.

(2) Conviction of any crime within the five (5) years immediately preceding the date of filing of the application, involving a crime against a person or involving moral turpitude, including, but not limited to, violation of any law regulating sexual conduct or the production, sale, possession or use of narcotics.

(3) Fraud, misrepresentation or intentional false statement of material or relevant facts contained in the application or previous denial or revocation of any permit as provided by this Chapter.

(4) The applicant does not have other necessary permits or licenses required to peddle or solicit in the manner or location indicated in his or her application or is prohibited under other applicable laws or regulations from conducting his or her business in such a manner or location.

(c) In the event the Sheriff denies a permit, he shall notify the applicant, in writing, within ten (10) days of the denial of the permit. Such notification shall be sent by certified mail. The applicant may appeal therefrom as provided for in this Article.

Sec. 18.2-28. Contents of permit.

Such permit shall contain the following information: a permit number, name and address of the applicant, photograph of applicant, if an individual; the kind of goods to be sold or services performed; name of employer, if any; date of issuance and expiration; signature of the Sheriff; and an identifying description of any vehicle used in such business.

Sec. 18.2-29. Duration of permit; non-transferable.

All permits issued pursuant to this Article shall be valid for a period of one (1) year from the date of issuance. No permit shall be transferable. A permit shall become void at such time as a permitee hereunder changes (i)

the permitee's employer, if not self-employed, (ii) the kinds of goods to be sold, or (iii) the type of services to be performed.

Sec. 18.2-30. Renewal.

A solicitor's permit issued under this Chapter may be renewed on its expiration date for the next consecutive twelve (12) month period, upon the execution of a renewal application setting forth that the statements made in the original application are true and accurate statements at the time the renewal application is filed, or a renewal application setting forth all changes in the original application required by a change in facts since the date of filing the original application. For each renewal permit, the applicant shall pay the Sheriff a fee of $5.00. The permit may be renewed at the end of each year during which it remains in force for the next successive twelve (12) month period. If, however the permit holder fails to timely renew same it shall lapse and may not be renewed, provided that a new permit may be issued in accordance with the application requirements for a new permit.

Sec. 18.2-31. Suspension of permit.

Any permit issued under this Article may be suspended by the Sheriff, without notice or hearing, for a period of up to ten (10) days for any of the reasons for which a license could be denied under this Article or for any violation of any provision of this Chapter. Such suspension may be extended beyond the initial period until the charge(s) upon which it is grounded have been disposed of; provided, that the permitee shall be so notified in writing within the initial ten-day period of suspension.

Sec. 18.2-32. Revocation of permit.

(a) Any permit issued under the provisions of this Article may be revoked by the Sheriff after first giving seven (7) days' written notice to the permitee stating the reasons therefor, which may include, but shall not be limited to, the following:

(1) Any of the reasons for which a permit can be denied under this Chapter.

(2) Conduct of the business or activity for which the permit was issued in an unlawful manner or in such manner as to constitute a breach of the peace or a danger to the health, safety, and welfare of the public, including but not limited to, the following:

a. Use of a threat, expressed or implied, or of coercion as inducement to make a sale; or

b. Refusal to discontinue efforts to make a sale when specifically requested to do so by the prospective purchaser.

c. Fraud, misrepresentation or false statements contained in the application for the solicitation permit.

d. Fraud, misrepresentation or false statements made in the course of carrying on the business as a solicitor.

e. Conviction of any crime or misdemeanor involving moral turpitude.

(3) Violating any provision of this Chapter.

(4) Violating any provision of the Virginia Home Solicitation Sales Act (*Code of Virginia*, Chapter 2.1 of Title 59.1), the Virginia Consumer Protection Act (*Code of Virginia*, Chapter 17 of Title 59.1) or any other applicable consumer protection measures which are pertinent to the conduct of the permitted business activity.

(b) Notice of revocation shall be sent by certified mail to the permitee at the business address appearing on the permit application; or if there be none, to the residence address appearing thereon. The permitee may file an appeal therefrom in accordance with this Article.

(c) The Sheriff shall keep a record of all permits revoked for a period of five (5) years.

Sec. 18.2-33. Appeals.

(a) *From Decisions of the Sheriff.*

(1) *Right of appeal.* If the Sheriff denies, suspends or revokes any permit, any person affected thereby may appeal such decision to the York County Board of Supervisors.

(2) *Procedure.* The appellant or his attorney may file with the Chairman of the York County Board of Supervisors or the York County Administrator a written notice of appeal signed by the appellant or his attorney requesting a hearing and setting forth a brief statement of the reasons therefor. Such appeal shall be filed within ten (10) days of receipt of the notice of denial, suspension or revocation.

a. Upon receipt of such notice of appeal, the York County Board of Supervisors shall forthwith set a time and place for such hearing which shall be scheduled within sixty (60) days of receipt of the request therefor and shall mail written notice thereof to the appellant or his attorney in the same manner as is notice of denial or revocation of a permit as stated in this Article.

b. Hearings pursuant to this Article shall be open to the public and shall be, insofar as is reasonably practicable, informal and free of technical rules of law or evidence. Appellant may call such witnesses as are deemed necessary.

1. The York County Board of Supervisors shall hear the matter de novo, and shall consider the evidence presented to it, including any statements offered by interested parties.

2. The York County Board of Supervisors may establish such additional rules of procedure for the conduct of its hearings as may be consistent with the provisions of this Chapter.

c. Decisions of the York County Board of Supervisors shall be reduced to writing, and rendered within thirty (30) days of concluding the hearing. A copy thereof shall be furnished to appellant or his attorney.

d. If the York County Board of Supervisors affirms the decision of the Sheriff to deny, suspend or revoke a permit, the denial, suspension or revocation shall be effective from the date of the York County Board of Supervisors' order, except as hereinafter provided in this Section.

e. If the York County Board of Supervisors reverses the decision of the Sheriff, the York County Board of Supervisors shall direct the Sheriff to issue or restore the permit in accordance with its order.

(b) *Decisions of the* York County Board of Supervisors. The decisions of the York County Board of Supervisors shall in all cases be final and conclusive.

Sec. 18.2-34. Filing of application after denial or revocation.

No application for a permit under the provisions of this Article shall be accepted from any person whose application for a permit has been denied or whose permit has been revoked for a period one (1) year from the date of such denial or revocation.

CODE OF THE COUNTY OF YORK

Chapter 19

SOLID WASTE, GARBAGE AND WEEDS

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ARTICLE I. IN GENERAL

Sec. 19-1. Definitions.

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them by this section.

Citizen Drop-off. An area of disposal at the Waste Management complex where citizens can dispose of solid waste materials.

Collection. Removal of solid waste and/or recyclable materials from its place of origin or storage to a transportation vehicle.

Collection vehicle. Any vehicle used to collect or transport solid waste or recyclable materials.

Collector. Any person engaged in the business of the collection and transportation of solid waste or recyclable materials.

Commercial/business waste. Solid waste or recyclable materials emanating from establishments engaged in business. This category includes but is not limited to solid waste resulting from such establishments as stores, markets, office buildings, restaurants, shopping centers, theaters and waste from households that are not eligible for the county's residential waste collection service.

Compacted refuse. Refuse or waste which has been reduced in volume by mechanical or hydraulic means and remains in this state of reduced volume until deposited at a disposal facility.

Compost Facility. A VPPSA operated facility where yard debris is collected for a fee from participating communities such as York County and processed into saleable products such as mulch and compost.

Construction, clearing and/or demolition debris. The waste building material, packaging and rubble resulting from construction, land clearing, remodeling, repair and demolition operations on pavements, houses, vacant land, commercial buildings and other structures.

County administrator. The county administrator of York County, Virginia, or his authorized designee.

Disposal facility. Any site used for the disposal of solid waste or processing of recyclable materials including but not limited to transfer stations, material recovery facilities, recycling centers, sanitary landfills, drop-off convenience centers, and composting plants.

Foreign growth. Any plant or grouping or mass of plants, including grass and weeds, whether or not indigenous.

Garbage. Putrescible animal or vegetable waste resulting from the handling, preparation, cooking, serving or consumption of food.

Hazardous waste. Solid waste which because of its inherent nature and/or qualities re-quires special handling during disposal to avoid creating environmental damage or hazards to public health or safety or landfill operations. Hazardous waste includes but is not limited to such items as petroleum waste, paints, plastics, explosives, acids, caustics, chemicals, poisons, drugs, radioactive materials, asbestos fibers, imported wool fibers, pathogenic wastes from hospitals, sanitariums, nursing homes, clinics and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like. (Residential solid waste normally contains some hazardous materials but because such materials are usually present in very small quantities their safe disposal either in a sanitary landfill or incinerator presents no special problem. Therefore, residential waste is not considered to be hazardous within the meaning of hazardous waste as used in this chapter.)

Household waste. See “residential/household waste.”

Industrial waste. All solid waste resulting from manufacturing and industrial processes such as, but not limited to, those carried on in factories, processing plants and slaughter-houses.

Institutional/governmental waste. Solid waste resulting from operations or activities of the Commonwealth of Virginia, its political subdivisions or agencies of the United States government.

Mixed Paper. Paper accepted for recycling that includes but is not limited to bond paper, computer paper, magazines, catalogs, bulk mailings, telephone and other directories, single layer cardboard, box board, and similar kinds of material.

Occupant. The person who resides on premises as owner or tenant.

Open dump. An unregulated disposal site that is operated without the required compaction and cover.

Recyclable Materials. Defined as raw or processed material that can be recovered from a waste stream for reuse.

Refuse. All solid waste of a community.

Residential/household waste. Solid waste resulting from single-family detached homes or condominiums, apartments, townhouses, trailers or duplexes.

Rubbish. Any materials unused and rejected as worthless or unwanted.

Sanitary landfill. A land site on which engineering principles are utilized to bury deposits of solid waste without creating nuisances or hazards to public health or safety.

Solid waste. As defined in 9 VAC 20-80-140 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

Transfer Station. Any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

Transportation. The transporting of solid waste from the place of collection to a disposal facility.

Trash. Any rubbish that includes cans, bottles, containers, plastic, paper, cardboard or other discarded material of an inorganic nature.

VPPSA. Virginia Peninsulas Public Service Authority in which York County is a participating and paying member community for various services such as the Compost Facility and curbside recycling.

Unacceptable Waste: shall mean those types of Solid Waste prohibited by Chapter 19, York County Code, as in effect of the date of this Agreement, from being transferred at a county-operated Disposal Facility including, but not limited to waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law; biomedical waste; or any other waste which by its nature, characteristic or quantity cannot lawfully be disposed at a permitted sanitary landfill without special handling. For the purpose of this Agreement, the term Unacceptable Waste shall also include batteries, tires, gasoline, paint and paint cans (except empty paint cans). Unacceptable Waste shall also specifically include, but not be limited to special and restricted waste as follows:

(a) *Special Waste:* to include any solid, liquid, semi-solid, gaseous material and associated containers generated as a direct or indirect result of a manufacturing process or from the removal of contaminant(s) from the air, water or land. Examples include, but are not limited to:

(1) Asbestos waste

(2) Compressed gas cylinders

(3) Contaminated food products and fabrics requiring supervised disposal

(4) Contaminated soils resulting from the removal of underground storage tanks (UST)

(5) Discarded chemicals and pesticides (not regulated as hazardous waste)

(6) Materials from a hazardous waste incident clean-up

(7) Hazardous wastes generated by small quantity generators

(8) Incinerator ash

(9) Industrial process waste

(10) Infectious waste

(11) Low specific activity radioactive wastes

(12) Oil spill clean-up

(13) Outdated products

(14) Pesticide containers

(b) Restricted Waste including:

(1) Tree limbs, logs, stumps or wood products larger than 6" in diameter and 6' in length

(2) Heating boilers (cast iron or tube type) or iron rods and steel pipe over 6' long

(3) Automotive engine blocks

(4) Automobile or truck frames or trailers

(5) Large rolls or wire such as telephone, cable TV, electrical or guy wire

(6) Building or land clearing debris from commercial enterprises, unless permitted by the County Code

(7) Oil tanks

(8) Drums that are not empty, properly cleaned and do not have at least one end removed

(9) Bulk or flammable liquids

(10) Any incinerated or burned debris

Uncompacted refuse. Refuse or waste which has not been reduced in volume by mechanical or hydraulic means or, if so, has not been maintained in this reduced volume state during transportation to the disposal facility.

Vacant property. A lot or parcel of real property either not improved by any structure or having a structure or structures neither occupied as a residence nor devoted to any other use normally involving the presence of employees or other persons on business days.

Waste. Useless, unwanted or discarded materials.

Waste generator. The person who actually produces the commercial, household, industrial or institutional/governmental solid waste.

(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12; Ord. No. 14-8, 5/20/14)

Sec. 19-2. Conflict with other laws.

The provisions of this chapter shall in no way alter, diminish or change the provisions of any other law, ordinance or regulation. In the case of any conflict in the terms, conditions or provisions of this chapter with any terms, conditions or provisions of any other law, ordinance or regulation, the more restrictive requirement shall prevail.

Sec. 19-3. Violations and penalties.

(a) It shall be a violation of this chapter for any person to throw, drop, deposit or otherwise dispose of any solid or hazardous waste on any public or private property within the county except in accordance with the provisions of this chapter. In additions to any other provisions of this chapter, any person who fails to comply with any provision of this chapter after the date of adoption shall be deemed to be in violation of this chapter. Each day that a violation exists shall constitute a separate violation. The penalty for conviction of a violation of any provision of this chapter shall be the imposition of a fine not exceeding one thousand dollars ($1,000) or thirty (30) days imprisonment for each violation or both.

(b) The county may apply to the county circuit court for injunctive relief to enjoin a violation or a threatened violation of the terms of this chapter without the necessity of showing that there does not exist an adequate remedy at law.

Sec. 19-4. Prohibited disposition of waste—Private dumping ground prohibited.

(a) It shall be unlawful for any person to dispose of any solid waste in any well, spring, reservoir, watercourse or body of water or upon any sidewalk or public grounds other than grounds designated by the county for such purpose and then only in the manner provided for by this chapter and by governmental regulations relating thereto.

(b) It shall be unlawful for any person to permit any land within the county which is owned or occupied by him or which is under his charge or supervision, to be used as an open dump; it being the purpose of this paragraph to make disposal facilities designated by the county for such purpose as the only authorized places for the disposal of solid waste materials. Nothing in this section shall prohibit the dumping of solid waste material in a private sanitary landfill licensed by the Virginia Department of Waste Management and operated in accordance with state and federal regulations.

Sec. 19-5. Same—On highway right-of-way or private property.

(a) No person shall dump or otherwise dispose of solid waste material or a companion animal for the purpose of disposal on a public highway, right-of-way property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.

(b) When any person is arrested for a violation of this section and the matter alleged to have been dumped or disposed of on the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the arresting officer may comply with the provisions of section 46.2-936, Code of Virginia in making such arrest.

(c) When a violation of the provisions of this section has been observed by any person and the matter dumped or disposed of on the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

(d) Any sums collected under the terms of this section shall be paid to the county treasurer and credited to the general county fund.

(e) As used in this section, the term "companion animal" shall be as defined in section 3.1-796.66, Code of Virginia.

(f) Any person convicted of a violation of this section shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than two hundred fifty dollars ($250.00) or more than two thousand five hundred dollars ($2,500.00), either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform community service in litter abatement activities.

(Ord. No. 03-23, 7/15/03)

Sec. 19-6. Maintenance of premises; duty of owner.

(a) Duty to maintain free from health and safety endangering substances and nuisances. It shall be the duty of the owners of real property in the county to maintain such property at all times free from any accumulation of solid waste, trash, garbage, refuse, litter or other substances which might endanger the health or safety of other residents of the county or otherwise constitute a nuisance.

(b) Duty to cut grass on occupied residential real property.

It shall be the duty of the owners of occupied residential property to cut grass or lawn areas as frequently as necessary to maintain such areas at twelve inches (12”) in height or less and in accordance with the distances to surrounding properties and rights-of-way prescribed subsection (c) below, or to a maximum coverage of one-half acre, whichever is less.

(c) Duty to cut grass, weeds, and other foreign growth, on any other occupied or vacant developed or undeveloped property.

It shall be the duty of the owners of any occupied or vacant developed or undeveloped real property in the county not covered by subsection (b) above to provide for the cutting of grass, weeds and other foreign growth on such property or any part thereof as provided for in this section.

1. Mowing on the portions of such property located 150 feet or less from an existing principal building or structure on the subject property or on any surrounding property shall occur as frequently as necessary to maintain the grass/weeds at a height of twelve (12) inches or less.

2. Mowing of property shall occur as frequently as necessary to maintain the grass/weeds at a height of twelve (12) inches or less within fifty (50) feet of the road right-of-way line in the following cases:

   a. any property abutting an existing public street/road within the Virginia Department of Transportation system which was platted and constructed as part of a subdivision development; or

   b. any property abutting an existing private street which was platted and constructed as part of a subdivision development and which is owned and maintained by a property owner’s association; or

   c. any property zoned for commercial or industrial use and which abuts a road in the Virginia Department of Transportation Primary System.

(d) In addition to the mowing required by the preceding sections, mowing shall be required on such other property as is determined by the County Administrator, in consultation with the Division of Animal Control, to be a breeding and harboring place for insects, reptiles or rodents, or to constitute any other hazards that endanger or may endanger the public health, safety or welfare.

(e) The mowing requirements set forth in subsections (b), (c) and (d) above shall not apply to:

1. property that is being actively farmed for crop production or maintained as pasture land for livestock grazing purposes or which is zoned RC, RR, IL or IG;

2. protected wetland areas or other environmentally sensitive and regulated areas;

3. areas being maintained and designated as natural “hazards” on an active and operational golf course;

4. the forest “floor” in any mature wooded area where the predominant tree height is four (4) feet or greater;

5. an area being re-forested which meets the survival rate standards of the Virginia Department of Forestry and where the trees have reached a height of four (4) feet or greater;

6. any areas that are within the distance from principal buildings or structures specified above, but which are separated from said principal buildings or structures by a mature wooded buffer area at least fifty (50) feet in width and being sufficiently dense in plant material to meet the Type 50 Transitional Buffer standards of the York County Zoning Ordinance;

7. areas within fifty (50) feet of streets/roads prescribed above but which are separated from the adjacent roadway by an area parallel to the roadway in which trees and/or bushes of sufficient density and maturity as to screen direct views of the grass/weeds beyond; and

8. any areas where the County Administrator determines mowing to be unnecessary or impractical due to extenuating circumstances such as, but not limited to, topography, accessibility, or the adequacy of buffering for adjacent principal buildings or structures.

(f) Authority of administrator to investigate and cause work to be done. The county administrator may investigate conditions existing on any real property in the county at any time and, upon a determination that the owner of such property stands in violation of his duty as provided in this section, written notice shall be provided to the owner and to the person primarily responsible if different from the owner of such property stating the facts which constitute a violation of paragraphs (a), (b) or (c) above and directing the owner to take such action as may be necessary to rectify such conditions within fifteen (15) days of the date of the notice and, if the owner shall fail to comply with the terms of the notice, then the county administrator shall cause to be done such work as may be necessary to abate the offending condition by agents or employees of the county.

(g) Billing and collection of expenses. All expenses resulting from the correction of a violation by the agents or employees of the county shall be billed to the owner and shall, unless paid in full within fifteen (15) days, be certified by the county administrator to the county treasurer who shall collect such amount as taxes and levies are collected; and all charges not so collected shall constitute a lien against such property.

(h) When notice deemed served. Any notice required by this section shall be conclusively deemed to have been served when mailed by certified or registered mail to the current owner at the address shown on the land records of the commissioner of the revenue of the county.

(i) Penalty for violation.

1. A violation of subsection (b) shall be subject to a civil penalty, not to exceed $100.

2. A violation of subsections (c) or (d) shall be subject to a civil penalty, not to exceed $50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations arising from the same set of operative facts within 12 months of the first violation shall not exceed $200. Each business day during which a violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000 in a 12-month period.

(Ord. No. 08-6, 4/15/08; Ord. No. 08-13(R), 9/2/08; Ord. No. 15-4, 5/19/15)

Sec. 19-7. Ownership of solid waste and recyclable materials.

All solid waste and recyclable materials collected by York County, upon being inspected and removed by the county or its agents from the premises where produced or accumulated, shall become and be the property of the county. When solid wastes not collected by the county or its agents are deposited at the county disposal facility or recycling processing center, after inspection and acceptance, they shall forthwith become the property of the county.
(Ord. No. 12-18(R), 11/20/12)

Sec. 19-8. Storage of solid waste and recyclable materials.

(a) The occupant of every dwelling unit and of every institutional, commercial, business, industrial, or other establishment within the county producing solid waste shall ensure that there are sufficient and adequate containers for the storage of all solid waste, except demolition and construction waste, to serve each such dwelling unit and/or establishment.

(b) Solid waste containers shall be waterproof and leakproof, and shall be covered at all times, except when depositing waste therein or removing the contents therefrom.

(c) The occupants of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste and recyclable materials to be collected in the proper containers and shall maintain such containers and the area surrounding them in a clean, neat, and sanitary condition at all times.

(Ord. No. 12-18(R), 11/20/12)

Sec. 19-9. Accumulation of solid waste.

No person owning, managing or occupying any property shall allow any accumulation of solid or hazardous waste to remain upon such property for a period of more than seven (7) days, if such accumulation tends to create a health or fire hazard or other nuisance. This prohibition shall extend to all property including vacant property within the county.

Sec. 19-10. Transport of solid waste; duty of transporter.

It shall be unlawful for any person transporting any waste or solid waste upon or over any public street or right-of-way within the county to fail to provide a suitable and secure cover therefor and to take such other precautions as may be necessary to prevent such waste or solid waste from spilling from the vehicle in which it is being transported.

Sec. 19-11. Removal of recyclable solid waste.

It shall be unlawful for any person, other than an authorized collector pursuant to section 19-40 of this chapter, to remove any recyclable solid waste placed by the occupant of a dwelling unit for disposal or collection unless permission has been obtained from the occupant of the dwelling unit for such removal. Nothing in this section shall be construed as prohibiting a person from selling, or otherwise disposing of his own recyclable solid waste.

Secs. 19-12—19-19. Reserved.

ARTICLE II. DISPOSAL FACILITIES

Sec. 19-20. Disposal facilities.

The county may maintain and operate such disposal facilities or collection centers as it shall deem necessary in the public interest. Such disposal or collection centers shall be operated in accordance with regulations

promulgated by the Virginia Department of Environmental Quality and in accordance with applicable provisions of the York County Code.
(Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12)

Sec. 19-21. Private sanitary landfills; permit required.

No person shall locate, operate, conduct or maintain a sanitary landfill or any place for the disposal and/or storage of solid or hazardous wastes in the county unless a permit therefor is issued by the board of supervisors. Such permit shall be subject to such conditions as may be deemed necessary by the board of supervisors to protect the public health, safety and welfare. A violation of any condition of any such permit shall be deemed a violation of this chapter and, in addition to any other penalty, may result in the revocation of the permit.

Sec. 19-22. Disposition of solid waste.

All person collecting or disposing of solid waste within the county shall dispose of the same at a disposal facility which has been established and operated under the provisions of this chapter in accordance with all applicable federal, state and local laws and regulations.

Sec. 19-23. Use of county disposal facilities—Rules and regulations.

All persons using any county disposal facility shall be subject to the following requirements, the violation of which shall result in punishment in accordance with section 19-4 of this chapter.

(a) All materials disposed of at county disposal facilities will be inspected and after acceptance shall thereupon become the property of the county and shall be subject to salvage by the county for its own use and benefit. No person shall engage in scavenging at a county disposal facility without a written salvage permit from the county administrator. Such permit shall be subject to conditions designed to improve and promote county disposal facilities and shall not be granted if the activities of the scavenger would interfere with county operations. It is the intent of this provision that a permit not be granted simply to further the business interests of scavengers but that, in addition, the county must derive a substantial benefit therefrom.

(b) No person shall enter upon, deposit or dump any waste or solid waste at any county disposal facility at any time when such facility is closed.

(c) All persons using a county disposal facility shall obey the orders and directives of the county employee or contractor in charge thereof.

(d) The county administrator may issue permits to use county disposal facilities to persons engaged in the service of collecting or disposing of solid waste whether such waste was generated within or without the county, as provided in article III of this chapter. Permits are not necessary for other persons to use county disposal facilities.

(e) Whenever solid waste brought by any person to a county disposal facility for disposal is such that, in the opinion of the county administrator it requires special handling, he may refuse to accept the same or may agree to accept such solid waste upon payment of a service charge based upon the cost of handling and disposing of such waste as set forth in section 19-24.

(f) All persons desiring to deposit solid waste at any county disposal facility shall pay such fee, if any, for such disposal as shall be set out from time to time by resolution or ordinance of the board of supervisors.

(g) The County Administrator shall be authorized to waive the tipping fee for disposal at the county transfer station for special community activities that support the express goals of the County.

(h) The county administrator shall be authorized to develop reasonable rules and regulations for the use and operation of county owned disposal facilities not in conflict with the provisions of this chapter. Upon approval by resolution of the board of supervisors of such rules and regulations, the violation of any such rule or regulation shall be deemed a violation of the provisions of this chapter.

(Ord No. O97-15, 6/4/97; Ord. No. 04-31, 1/18/05)

Sec. 19-24. Charges and permits for use of county disposal facilities.

(a) Use of county-owned disposal facilities shall be subject to the following fees and charges:

(1) Subscriber households and qualified small businesses, as defined in section 19-62 who are subscribed to the Basic Service for both solid waste and recycling collection and are current in payments for such services may personally dispose of their own solid waste, including incidental construction debris generated from their own premises, at a county disposal facility at no additional charge. Contractors subscribed to the county's waste program shall have 4 visits to VPPSA's facility without charge. Visits using their equipment after 4 trips will be charged a fee of thirty-eight dollars ($38.00) per ton.

(2) Non-subscriber households and businesses, as defined in section 19-62 including contractors retained by households or by small businesses subscribed to the county's solid waste and recycling collection services who dispose of yard debris waste at VPPSA's Compost Facility shall pay a fee of thirty-eight dollars ($38.00) per ton. This fee shall be prorated for amounts of waste that do not constitute an even ton; provided, however, that a minimum fee of 5 dollars ($5.00) per vehicle shall be charged. All fees required to be collected at the time of disposal shall be rounded to the nearest whole dollar. Fees that are collected on a monthly basis pursuant to the provisions of subsection (e) of this section shall be for the exact amount of the fee incurred.

(3) Non-subscriber or subscribed to "recycling only" households and businesses, as defined in section 19-62 who dispose of solid waste at the county's Drop-off or Transfer Facility shall pay a fee of fifty two dollars ($52.00) per ton. This fee shall be prorated for amounts of waste that do not constitute an even ton; provided, however, that a minimum fee of seven dollars ($7.00) per vehicle shall be charged. All fees required to be collected at the time of disposal shall be rounded to the nearest whole dollar. Fees that are collected on a monthly basis pursuant to the provisions of subsection (e) of this section shall be for the exact amount of the fee incurred.

(4) There shall be no charge for the disposal of recyclable items, as listed in section 19-70(a), at designated county disposal facilities.

(b) Persons disposing of waste requiring special handling (including food processing wastes), shall at a minimum pay the applicable tipping fees plus the following amounts:

(1) $72.00 - 0 to 3,999 pounds

(2) $82.00 - 4,000 to 6,000 pounds

(3) $100.00 - Over 6,000 pounds

(4) Additional fees may be required by the county administrator as set forth in paragraph (d) of this section. Animal carcasses will not be accepted at the county's transfer station.

(c) Prior to the acceptance of industrial or food-processing waste, or any other solid waste requiring special handling, the person desiring to dispose of the same shall secure a permit from the county administrator. Prior to the issuance of such permit, the county administrator shall determine the compatibility of the specific refuse with the method of disposal utilized. In determining such compatibility, the county administrator shall consider disposal volume, difficulty of handling, employee safety, likelihood of equipment damage, and any unusual health and environmental problems and current state and federal regulations. The disposal charge for any such material shall be as a minimum the amount set out in paragraph (b) above, but shall be higher as necessary to cover all cost associated with the special handling requirements, the potential damage to landfill equipment, environmental effects, state and federal rules and regulations regarding the waste and other factors as may be appropriate for such waste. Based on these considerations, the county administrator may require additional special handling charges as necessary from time to time for use at county disposal facilities.

(d) In the event the disposal facility's scale is inoperative, charges for disposal shall be based upon weight data previously generated for the vehicle hauling such waste and the nature of the waste. The weight data shall consist of not fewer than fifteen (15) previous weighings by the vehicle carrying such waste and shall be modified by a visual inspection of the vehicle if such is feasible. For vehicles for

which no history of previous weight data exists or for which insufficient data exists, the following rates shall apply:

(1) *Uncompacted refuse*: The charge shall be thirty-five dollars ($35.00) per cubic yard of truck capacity.

(2) *Compacted refuse*: The charge shall be forty-five dollars ($45.00) per cubic yard of truck capacity.

(e) Charges imposed under the provisions of this chapter shall be due and may be paid upon entering the disposal facility. At the discretion of the county administrator, bills may be rendered not less than monthly. All bills rendered after the date of adoption of this chapter shall be due and payable upon presentation and at the place designated by the county. If not paid within thirty (30) days, the bill will be considered delinquent and a penalty of ten (10) percent or twenty-five dollars ($25.00), whichever is greater, will be added to the original amount due. Interest at the rate of ten (10) percent per annum shall be charged on the aggregate of the payment and the penalty due beginning with the date the penalty is applied. If any bill shall not be paid within forty-five (45) days of the billing date, then disposal privileges shall be terminated.

(Ord. No. O97-15, 6/4/97; Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 06-22, 9/19/06; Ord. No. 12-18(R), 11/20/12; Ord. No. 14-8, 5/20/14)

Sec. 19-24.1. Composting facility.

All yard waste, as defined in section 19-62, that is generated in the county and is not collected by the county's solid waste collection service, may be delivered without payment of a fee by subscribed county residents to the composting facility operated at the county's waste management center by VPPSA. All other persons, including Non-subscribed households or county businesses, delivering yard waste to the composting facility shall pay the tipping fees established by the Virginia Peninsulas Public Service Authority or minimum fees established by section 19-24 (a) (2) therefor.

(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12; Ord. No. 14-8, 5/20/14)

Sec. 19-25. Weighing of vehicles.

The county administrator may, but shall not be required to, weigh vehicles upon the request of the owner or operator thereof for purposes other than determining the amount of refuse to be deposited at a county disposal facility. In any such circumstance, the person requesting the weighing shall be charged the sum of not less than five dollars ($5.00) per axle for each vehicle weighed which shall be due and payable at the time of weighing.

Sec. 19-26. Special regulations for the disposal or storage of tires.

(a) *Storage of More than 250 Tires.* Any person accumulating, storing or disposing of more than 250 used tires at any one time on a site within the County shall notify the fire official so that such information can be entered into the emergency response data base.

(b) *Storage of More Than 1,000 Tires.* Any person proposing to accumulate, store or dispose of more than 1,000 used tires, other than in a fully enclosed building or trailer, shall secure a permit approved by the board of supervisors. The permit application shall be filed with the fire official and shall include sufficient plans, drawings and other information to demonstrate compliance with the performance standards set forth in subsection (c), below, and shall be accompanied by an application/review fee of $200.00. Permits issued by the board shall be in effect for two (2) years from the date of issuance.

(c) *Storage Methods and Standards.* Any storage of more than 1,000 used tires shall be in accordance with the following standards, unless within a fully enclosed building or trailer:

1) Tires may be stockpiled in cells covering a maximum surface area of 5,000 square feet each. The maximum width of any stockpile shall be fifty (50) feet and the maximum height shall be five (5) feet.

2) Stockpiles shall be separated by a minimum distance of fifty (50) feet and shall be located a minimum distance of fifty (50) feet from any building or structure and any perimeter property line. These fifty (50) -foot separation areas shall be maintained free of obstructions at all times and maintained so as to permit emergency apparatus access.

3) The maximum distance from any portion of the stockpile to an emergency access lane capable of accommodating fire response apparatus shall be 150 feet.

4) An adequate water supply for fire suppression, as determined by the fire official, shall be available to the site.

5) All outdoor storage sites shall be enclosed by an eight-foot high chain-link fence and access shall be controlled by a lockable gate. If storage is within a fully enclosed trailer(s), no fence shall be required.

6) Appropriate and adequate provisions shall be made for storm water management on the site. In addition, the drainage plan for the site shall be developed to manage properly any runoff that would result from fire suppression efforts in the event of a fire in any of the stockpiles.

(d) *Temporary Storage of More than 1,000 Tires.* When the accumulation of tires on a site will exceed 1,000 tires for less than ninety (90) days, the above-described permit shall not be required; provided, however, that all performance standards stipulated above for the storage cells shall be observed or the tires in excess of 1,000 shall be contained within a fully enclosed building or storage trailer.

(e) *Sanitary Landfill Permit Holders Exempt.* Any person holding a current and valid permit from the Virginia Department of Waste Management for the operation of a sanitary landfill shall be exempt from the permit requirements set forth in this section. The fire official may, however, impose reasonable fire safety requirements on the operator including, but not limited to, any of the requirements set forth in subsection (c) above.

(Ord. O96-9(R), 12/4/96)

Secs. 19-27—19-39. Reserved.

ARTICLE III. COLLECTION OF SOLID WASTE

Sec. 19-40. Permit required, conditions, renewal and revocation.

(a) *For whom permit required*. No person, including governmental agencies, shall engage in the business of collecting and/or disposing of solid waste in the county without first obtaining a permit therefor from the county administrator; provided, however, that this provision shall not be deemed to apply to employees of the holder of any such permit.

(b) *Application; required information*. Any person desiring to engage in the collection and/or disposal of solid waste in the county shall make written application to the county administrator setting forth the name, phone number and address of such person, a description of the equipment to be used in the collection and transportation, the type or types of solid waste to be collected, the place and/or method of disposal, and such other information as may be reasonably required by the county.

(c) *Insurance required.* No permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the county administrator evidence of a satisfactory comprehensive general liability insurance policy covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, as a minimum, in the amount required by the Commonwealth of Virginia. Such policy shall be provided for written notification to the county by the insured and the insurance carrier, of any cancellation of said policy not less than ten (10) days prior to the effective date of such cancellation.

(d) *Bonds, permit fees; changes to application.* The applicant shall pay all required fees and furnish any necessary bonds required by this chapter prior to issuance of a permit. No permit holder shall make any changes in the items listed in his original application without first notifying the county administrator. The fee for permits issued pursuant to this section shall be one hundred dollars ($100.00).

(e) *Customer list.* Each permit applicant shall certify, prior to the issuance of a permit, that a customer list is maintained that includes street addresses of customers and specifies the rate to be charged for each type of residential service. Such list shall be provided to the county administrator upon request.

(f) *Expiration of permits; annual renewal.* All permits shall expire on June 30 of the year following the year if issue and permits are renewable annually between June 1 and June 30.

(g) *Evidence of business license tax payment.* There shall be submitted with each application for a permit evidence that the applicant has paid any applicable business license tax.

(h) *Maintenance of business office.* No permit shall be issued or continued in effect until and unless the applicant maintains an office for the transaction of business to include the receipt of complaints, the payment of bills, the maintenance of records and the answering of inquiries. Such office shall be staffed during normal business hours with an authorized agent of the applicant, and serviced by a telephone listed in the telephone directory by trade name. Any change of address or telephone number shall be reported to the county administrator within five (5) business days.

(i) *Permit issuance conditions.* The county administrator shall issue a permit upon receipt of a completed application and upon a finding that the applicant has complied with the applicable provisions of this chapter and provided that the granting of the permit will not unduly interfere with the provision of services to county residents or the processing of all solid waste generated in the county and will not cause the capacity of any county disposal facility to be exceeded. The county administrator may impose reasonable conditions on any permit deemed necessary to protect the sanitary an deficient operation of the county's disposal facilities. Each permittee operating more than one (1) truck shall separately number each truck and shall display the number of each truck prominently in letters not less than four inches (4") in height on the front of the vehicle and on the passenger's side door.

(j) *Issuance or denial.* A permit shall be issued or denied within thirty (30) days of the receipt of an application by the county administrator. A permit may be denied issuance or renewal for any violation of this chapter including, but not limited to, failure to pay delinquent disposal facility charges or for unsatisfactory delivery of customer service. A denial shall be accompanied by reasons for denial in writing. The application shall have a period of ninety (90) days from the date of any such denial within which to conform his application to the requirement of this article and at the expiration of that period the application shall be deemed to have expired

(k) *Denial of permit as additional penalty.* In addition to any other penalty, any collector discovered illegally collecting refuse without a permit or violating the terms of an issued permit may be denied a refuse collection permit for a period of one (1) year from the time of the offense.

(l) *Revocation of permit.* Failure to correct conditions and practices not in accordance with the provisions of this chapter (including nonpayment of tipping fees) within seven (7) days after receipt of written notice of violation shall cause the permit to be revoked by the county administrator.

Cross reference—Licenses generally, Ch. 14.
(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05)

Sec. 19-40.1. Service areas; disposal of solid waste.

(a) The provisions of this section are enacted pursuant to the provision of section 15.2-930, Code of Virginia, and other general enabling legislation, and shall apply to all persons engaged in the business of collecting, transporting and/or disposing of solid waste in the county pursuant to a permit issued pursuant to section 19-40.

(b) For purposes of this article, the entire county is hereby designated as a service area, within which any permittee pursuant to section 19-40 may engage in the business of collecting, transporting and/or disposing of solid waste, in the county, to the extent authorized in such permit, provided that all such solid waste shall be disposed of only in such places as may be designated by the county administrator.

(c) It shall be unlawful for any person who holds a permit pursuant to section 19-40 to dispose of any solid waste collected in the county pursuant to the permit at any place other than that designated by the county administrator. The provisions of this section shall not apply to:

(1) Garbage, trash and refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than an entity controlled by or under the same control as the manufacturer, miner, processor, refiner or converter of the energy or refuse-derived fuel;

(2) Recyclable materials, which are those materials that have been source-separated by an person, or materials that have been separated from refuse by any person for utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy;

(3) Construction debris to be disposed of in a landfill; or in a transfer station operated by the county.

(4) Waste oil.

(d) Nothing contained in this section shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the county of the effective date of this section, if such contract irrevocably requires that all waste collected in the county be delivered to some specific location other than that designated by the county administrator. No renewal of any existing contract upon the expiration of the original term thereof, and no new contract for the collection, transportation or disposal of solid waste shall be entered into after the effective date of this section, unless such renewal or such contract shall conform to the requirements of this section.

(Ord. No. 04-31, 1/18/05)

Sec. 19-41. Bond required.

(a) Any applicant seeking a permit for the collection and/or disposal of solid waste shall furnish a bond payable to the county in the amount of five thousand dollars ($5,000.00) for each vehicle with surety approved by the county attorney and conditioned to indemnify and safe harmless the county, as well as any person, firm or corporation, from all charges, expenses or damages that may be incurred by such person, caused by any failure to comply with the provisions of this chapter, neglect in the handling of the refuse, or nonpayment of charges imposed for the disposal of solid waste. If the permit holder fails to correct any neglect or noncompliance with this chapter within seven (7) days after receipt of written notice from the county administrator, the bond shall be forfeited and the principal and surety on said bond shall be required to reimburse the county or any customer of such permit holder for any expense or damage incurred as the result of such neglect or failure.

(b) The notice required by this section shall be conclusively presumed to have been received ten (10) days after mailing by the county first class, postage paid, to the permit holder's and surety's current addresses as reflected in the county's permit records.

(Ord. No. 00-6(R), 6/6/00)

Sec. 19-42. Transfer or termination of service.

Any person permitted under the provisions of this chapter shall give thirty (30) days' written notice of intent to transfer or terminate service to the county administrator, the bonding company, and all customers.

Secs. 19-43—19-49. Reserved.

ARTICLE IV. SOLID WASTE RECYCLING REPORT

Sec. 19-50. Purpose.

The purpose of this article is the furtherance of solid waste management and the recycling of solid waste as provided for in section 10.1-1411, Code of Virginia, as authorized by section 15.2-939, Code of Virginia.

(Ord. No. 04-31, 1/18/05)

Sec. 19-51. Definitions.

For the purposes of this article, the following words and terms shall have the meanings ascribed to them by this section:

Generators. Any entity whose act or process produces solid waste as defined in this section.

Manage. To collect, store, treat, transport and dispose of solid waste as defined in this section.

Recycling. The process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product, which may or may not be similar to the original product.

Reused. Once having been a waste and being:

(a) Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or

(b) Employed in a particular function or application as an effective substitute for a commercial product or natural resources.

Source Reduction. Any action that reduces or eliminates the generation of waste at the source, usually within a process. Source reduction measures include among others, process modifications, feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process.

Sec. 19-52. Annual report required by nonresidential waste generators, solid waste managers or recyclers.

All non-residential solid waste generators who generate more than five hundred (500) pounds of solid waste annually and companies that manage solid waste in excess of five hundred (500) pounds annually or recycle materials in excess of five hundred (500) pounds annually within the county shall submit an annual report to the county administrator, on or before February 15, 1993, and every year thereafter.

Sec. 19-53. Required information.

Each annual report required to be submitted hereunder shall be submitted on a form prescribed by the county administrator and shall include the following information with respect to the reporting party for the period covered by the report:

(a) The name and address of the reporting party.

(b) The total quantity of solid waste generated, managed and principal and/or supplemental recycling materials recycled by the reporting party during the past calendar year.

(c) The total quantity or volume of solid waste that has been the subject of source reduction or reuse as defined in this article.

Sec. 19-54. Report to be based on actual volume or weight.

The report required under this article shall be based on actual volume or weight. Where actual volume or weight cannot be accurately determined, the volume or weight may be reported using carefully estimated data. Any such report shall include a description of the basis for the reported data.

Sec. 19-55. Exclusion for information of proprietary nature.

Nothing hereunder shall be construed to require any party to report information of a proprietary nature. Where any party fails to report any information otherwise required hereunder based upon a determination that such

information is of a proprietary nature, the party shall specify in its report the nature of the information withheld and the basis for its determination that such information is of a proprietary nature.

Sec. 19-56. Report to include in-county market delivery only.

Recycled solid waste included in the report shall include only those solid wastes delivered to market from within the county.

Secs. 19-57—19-59. Reserved.

ARTICLE V. SOLID WASTE COLLECTION SERVICE

Sec. 19-60. Purpose and intent of article.

The service of collecting, disposing of solid waste and collecting and processing of recyclable materials is intended as an integral part of the county's protection of its residents' health and welfare and to divert as much solid waste from landfill disposal into marketable materials to maintain a low cost solid waste service. The purpose of this article is to protect life, property, and the general environment by establishing standards and procedures for the administration and enforcement of such standards as they relate to the control, collection, transportation and disposal of solid waste and the processing of recyclable materials. It is also intended to promote recycling in order to comply with state-mandated goals and to divert as much solid waste to market oriented recyclables in order to offset disposal costs and lower recycling collection costs. The fees established by this article are intended to be reasonable and equitable fees to cover the county's cost of providing a comprehensive system for collecting, transporting, processing, disposing of, and recycling solid waste, as well as establishing, operating, maintaining, contracting for the provision of, monitoring, and closing facilities for these services. Where the context so indicates, the provisions of this article shall apply to the owners and occupants of all property in the county, and to all who provide waste collection services.
(Ord. No. 12-18(R), 11/20/12)

Sec. 19-61. Service area established.

Pursuant to the authority expressly granted by section 15.2-930, Code of Virginia, and other general enabling legislation, there is hereby established a solid waste collection service area to include the entire area within the territorial limits of the county. The board of supervisors finds that the public interest will be advanced by contracting for the provision of certain collection services within the collection service area, and by establishing the fees to be charged for such contracted for services.
(Ord. No. 00-6(R), 6/6/00)

Sec. 19-62. Definitions.

For the purposes of this article, the following words shall have the meaning indicated below:

Bags. Disposable, plastic garbage bags that can be sealed, and which when filled do not exceed forty (40) pounds in weight.

Basic Service: one provided container for garbage to be collected every week (EW) and one provided container for recyclable materials to be collected every other week (EOW).

Bulky items. Normal household items too large to be placed in the county furnished container, but which the Contractor shall collect as set out herein, including such items as stoves, refrigerators, hot water tanks, washers, dryers, up to 6 rolls of carpet, a set of box springs and mattresses, regular size doors, lawn mowers, grills, or other normal house-hold/business furniture. The term “Bulky Items” does not include dead animals, manure or other waste materials resulting from the operation of a horse or other animal stable, hazardous waste (including, for example, batteries), tires, construction or renovation debris or other items too heavy or too bulky to be handled by a two-man crew.

Container. County or contractor furnished wheeled waste containers for each designated household or qualified small business, as needed.

Exempted occupants. Persons who apply to the county administrator for a handicap or elderly consideration or pay a fee for long driveway, private lane, or backyard service shall be considered exempted from normal public roadside service.

Extra Charges. Section 19.73 defines extra additional services and fees that a subscriber may wish to add to his basic service or solid waste service fees.

Household. A single-family detached home, trailers, duplex, or other residential units that can be serviced by a container.

Long driveway. A private driveway that is greater than one hundred fifty feet (150') in length, measured from the edge of the nearest public right-of-way to the front of a household served by the driveway, and which the county has determined to be eligible for collection service.

Non-subscriber. Those persons or businesses who are not citizens of York County and those York County individual households or businesses who have not agreed or signed up to the county Basic Service or recycling only collection services shall pay service fees for the use of the citizen drop off center or VPPSA Compost Facility as described in Sections 19-24, 19-24.1, and 19-73(d).

Private lane. A right-of-way listed in the current York County street index as a private lane, the name of which typically is displayed on street signs having a white background with green lettering or black lettering on a yellow background.

Qualified small business. A licensed small business, civic or charitable organization, community or neighborhood association, religious institution, or similar entity capable of being served by one (1) or more ninety-five (95) gallon containers, which entity requests and is approved for service by the county administrator.

Recycling only. One provided container for recyclable materials to be collected every other week.

Regular Service. Solid waste collection services for households or qualified business with two (2) containers allotted per customer.

Roadside. That portion of the right-of-way adjacent to a paved or traveled public roadway, or adjacent to a private lane or long driveway.

Solid waste. Waste as defined in 9 VAC 20-80-140 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

Solid waste materials. Solid waste and bulky items.

Subscriber. Those York County individual households or qualified businesses that have agreed and signed up to the county Basic Service or recycling only services at the fees described in Section 19-73(a), (b), or (c).

Yard waste. Grass clippings, leaves, branch, plant materials, roots, branches, and similar biodegradable materials.

(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12; Ord. No. 14-8, 5/20/14)

Sec. 19-63. Collection services—Generally.

(a) The county will furnish solid waste and recycling collection services for all single-family detached residences in the county, the owners or occupants of which agree to receive such services, excluding those on federal property. The county may, at its option, furnish solid waste and recycling collection services to households other than single-family detached residences, qualified small businesses, and households on federal property.

(b) The county administrator is authorized to promulgate reasonable rules and regulations not in conflict with the provisions of this chapter for the operation and management of the county's collection system.

(Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12)

Sec. 19-64. Containers.

(a) Each household and qualified small business that is to receive solid waste and recycling collection services from the county or county agent shall be provided one container for solid waste and one container for recycling as described in section 19-73. Additional containers and services are available for solid waste also as described in section 19-73.

(b) It shall be the responsibility of the owner or occupant of the premises supplied with container(s) to maintain it in a clean and sanitary condition, and in accordance with any maintenance instructions provided with it. Material including yard waste shall be placed inside bags whenever possible and the bags placed in the containers. When loose material becomes lodged inside of containers, it shall be the responsibility of the customer to dislodge the materials for the purpose of collection.

(c) Garbage and recycling containers shall not be filled to overflowing, and when filled shall not exceed Two hundred forty (240) pounds in weight. No additional bags, bundles of garbage, yard waste or other solid waste materials may be placed outside of the container for collection.

(d) Containers shall be placed near edge of pavement or edge of road to enable the automatic arm of the collection vehicle to pick up the container.

(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05)

Sec. 19-65. Storage of solid waste and recyclable materials.

The responsibility for storage of solid waste and recyclable materials prior to collection shall be with the occupant of each premises from which it is to be collected. The occupant shall maintain waste storage areas, containers, and the areas surrounding them in a clean, neat and sanitary condition at all times. It shall be the occupant's responsibility to remove any material outside of containers.

(Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12)

Sec. 19-66. Placement of solid waste and recyclable materials for collection by county or agents of the county.

(a) *Period permitted for placement; placement within enclosures*. On the day scheduled for collection, containers shall be placed at the roadside ready for collection prior to 7 a.m. the day of collection, unless the occupants of the premises have been exempted from this requirement under the provisions of subsections (d) or (e) of this section. Containers shall not be placed at the roadside for collection more than twelve (12) hours before the regularly-scheduled collection time, and shall be removed from the roadside no later than midnight of the day of collection. Households or qualified small businesses with driveways in excess of three hundred feet (300') in length may leave their containers within enclosures near the roadway, if such enclosures comply with all county ordinances and are approved by the county administrator; provided that such containers must be placed at roadside in accordance with the provisions of this section for collection.

(b) *Dates and time of collection*. The regularly-scheduled collection times shall be once per week for solid waste and every other week for recycling containers, except in the case of inclement weather or other emergencies, on such dates and times as shall be established and announced by the county administrator. Most solid waste collection times shall coincide as closely as possible with the county's schedule for the collection of recyclable materials. Collection schedules may be adjusted for holidays.

(c) *Bags and bundles of solid waste or recyclable materials*. No bags, bundles of solid waste, recyclable materials or yard waste may be placed outside of a container for collection, nor may any private containers be set out for collection by the county's contractor.

(d) *Exemption for medical reasons or age*. The county administrator may exempt the occupants of any premises from the roadside collection requirements of subsection (a) of this section and provide for an alternate pick up location, upon the filing by such occupants of an appropriate affidavit, with such documentation as may be required by the county administrator, stating that due to medical reasons or advanced age, none of the occupants are able to place such containers at the roadside for collection.

(e) *Other types of services*. The county administrator may provide the following services, to the extent determined feasible by the county administrator, and if their driveways are of sufficient design to ac-

commodate collection vehicles and upon application therefore and upon payment of the additional fees set out in section 19-73:

(1) Backyard Service: Occupants of premises with driveways no longer than one hundred and fifty feet (150') who desire to have the county transport the refuse to the roadside for collection;

(2) Long Driveway/Private Lane Service: Occupants of premises with long driveways (greater than one hundred and fifty feet (150') in length) or private lanes, who place the container adjacent to such long driveway or private lane:

(3) Long Driveway/Private Lane and backyard Service: Occupants of premises with long driveways (greater than one hundred and fifty feet (150') in length) or private lanes who desire to have the county transport the refuse to a point adjacent to such long driveway.

(f) *Placement of containers for exempted occupants*. In the event that the occupants of any premises are exempted from the roadside collection requirements of this section, they shall place their containers for collection at such location as may be agreed upon by the county and the occupants. Occupants who are exempted from the roadside collection requirements of this section shall ensure that on their regularly-scheduled collection day, access to containers shall be kept clear, and that dogs are secured so as not to impede collection.

(g) *County not responsible for maintenance of driveways or lanes*. Neither the county nor its agents shall be responsible for maintenance or normal wear and tear on private driveways or private lanes that are used for service pursuant to the provisions of subsection (e) above, and this shall expressly be made a condition of receiving such service.

(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12; Ord. No. 14-8, 5/20/14)

Sec. 19-67. Bulky item and special yard waste collection.

(a) Bulky Item Collection:

(1) Occupants who receive solid waste collection service and who desire to have bulky items collected must call the county in advance in accordance with a collection schedule to be published by the county administrator. Each household and qualified small business which has elected to receive collection services from the county is entitled to have three (3) bulky items collected per collection, four (4) times each calendar year. Single family detached and duplex residences which have elected not to receive county service may call the county in advance to receive bulky items collected, for such fee as is established by the board.

(2) New occupants of a household who elect to receive county collection services are permitted a one (1) time special bulky item collection of up to thirty (30) boxes.

(3) Individual households and qualified small businesses, which have elected not to receive county service, may call the county to arrange for special bulky item collections for a fee of thirty dollars ($30.00) per pick up. The county reserves the right to limit the amount of bulky items collected per pick up.

(b) Special Yard Waste Collection

(1) Yard Waste that is collected by the county through special collection shall be as defined in section 19.62. In addition, limbs or tree trunks shall not exceed 8” (inches) in diameter nor be longer than 10’ (feet) in length. York County residents and qualified small businesses who have subscribed to the Basic Service or recycling only collection service shall pay a fee of $25.00 per collection. Citizens or qualified small businesses that are not subscribed to the county Basic Service or recycling only collection service shall pay a fee of $75.00 per collection. Both subscribers and non-subscribers shall be limited to two collections every thirty days per household or qualified business at this rate. Each applicant requesting additional pickups within the thirty-day period of the initial pickup shall pay a fee of $100 for each additional pickup.

(2) York County households or qualified small businesses subscribed to the county Basic Service may transport their own yard waste and tree trunks or limbs up to 24” in diameter and up to 10’ long to the VPPSA facility at no fee. Citizens not subscribed to the Basic Service and

tree service or other commercial contractors transporting such wastes will be charged the VPPSA tipping fee or minimum fee per Section 19-24.1.

(Ord. No. 04-31, 1/18/05; Ord. No. 06-22, 9/19/06; Ord. No. 12-18(R), 11/20/12; Ord. No. 14-8, 5/20/14)

Sec. 19-68. Certain solid waste not to be collected.

(a) It shall be unlawful to deposit in containers for collection and transportation to county disposal facilities any of the following:

(1) Hazardous waste as so characterized or designated by the United states Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law;

(2) Industrial waste;

(3) Construction, renovation, clearing and/or demolition debris;

(4) Bulky items;

(5) Dead animals;

(6) Materials from stables;

(7) Batteries or tires;

(8) Waste oil;

(9) Poisons, acids or caustics;

(10) Explosives;

(11) Hot ashes;

(12) Pool chemicals;

(13) Any other unacceptable waste defined above or waste that cannot be disposed of at a permitted landfill without special handling.

(b) Collection may be refused any premises where the provisions of this article are violated. Violations of this article shall not relieve the responsible owner or occupant from payment of fees required by this article, in the event that such violations prevent collections to be made.

(c) The following are several types of solid waste that shall be prepared in the manner indicated prior to being placed in a container for collection:

(1) *Hypodermic instruments and other sharp articles*. No person shall dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before breaking, disassembling, destroying or otherwise rendering the same inoperative and incapable of reuse. Such hypodermic syringe, needle, instrument or device shall not be disposed of without safeguarding by wrapping or securing the same in a suitable manner so as to avoid the possibility of causing injury to collection personnel.

(2) *Ashes*. Ashes shall be thoroughly wetted and cooled to the touch.

(3) *Pressurized cans*. All pressurized cans containing pesticides or any other dangerous materials shall be relieved of all pressure.

(4) *Glass*. All broken glass or any type of glass that may cause injury to collection personnel shall be separately wrapped to prevent injury.

(5) *Pesticides and poisons*. All pesticide and poison containers shall be emptied.

(Ord. No. 04-31, 1/18/05)

Sec. 19-69. Tampering prohibited.

No person shall tamper with any container placed at the roadside for collection. No owner of a dog or other domesticated animal shall permit it to damage or open any container placed at the roadside for collection.
(Ord. No. 04-31, 1/18/05)

Sec. 19-70. Recycling.

(a) All households and qualified small businesses are encouraged to recycle. For the county's subscribers, items that are acceptable for collection are listed by the county or VPPSA and can be determined by contacting the Waste Management Division. These items are variable and are affected by the market for recyclable materials.

(b) For the county's subscribers, acceptable recyclable materials placed in the county or agent of the county furnished container are not required to be separated for collection.

(c) Yard waste shall not be collected for disposal in county disposal facilities, unless it is placed in a county or agent of the county furnished solid waste container.

(d) Yard waste as defined in section 19-62 that is too large to be placed in containers, such as tree limbs, may be collected from any premises in the county by a special collection, which occupants may arrange by calling the county in advance. The cost for each such collection shall be as specified in section 19-67(b)(1).
(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 12-18(R), 11/20/12)

Sec. 19-71. Use of services.

Nothing in this article shall prevent an owner or occupant who requests county services pursuant to this article from electing to transport and dispose of his own solid waste or recyclable materials to an authorized disposal site or recycling facility, if he so chooses.

Sec. 19-72. General responsibility of owner or occupant of premises to comply with article.

It shall be the duty of the owner or occupant of any premises within the county subject to the collection provisions of this article to comply with its applicable provisions, except where otherwise specifically provided.

Sec. 19-73. Fees and charges.

(a) Households and qualified small businesses who have elected to receive Solid Waste and Recycling Collection Services from the county shall pay in arrears to the county bi-monthly fees and charges for such services in the following amounts:

Solid Waste and Recycling	Standard Fee	Reduced fee for those who qualify under section 19-78
Basic Service	$35.00	$30.00
Recycling Only Service	$4.00	N/A
Extra charge for those who elect service pursuant to subsection 19-66(e)(1) Backyard Service	$24.50	$24.50
Extra charge for those who elect service pursuant to subsection 19-66(e)(2) Long/Private Driveway	$32.00	$32.00

Extra charge for those who elect service pursuant to subsection 19-66(e)(3) Long/Private Driveway and Backyard Service:	$54.00	$54.00

(b) Services for non-subscribers shown above will be available for the following fees:

Non-subscriber Services	Standard Fee	Reduced fee for those who qualify under section 19-78
Solid Waste Drop-off	$52 per ton	Not Applicable

(c) Services for non-subscribers shown above will be available for the following fees:

Solid Waste and Recycling	Standard Fee	Reduced fee for those who qualify under section 19-78
Basic Service	$35.00	$30.00
Recycling Only Service	$4.00	N/A
Extra charge for those who elect service pursuant to subsection 19-66(e)(1) Backyard Service	$24.50	$24.50
Extra charge for those who elect service pursuant to subsection 19-66(e)(2) Long/Private Driveway	$32.00	$32.00
Extra charge for those who elect service pursuant to subsection 19-66(e)(3) Long/Private Driveway and Backyard Service:	$54.00	$54.00
Extra charge per container:	$16.00	$16.00

(d) The above rates shall be effective July 1, 2014.

(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05; Ord. No. 06-22, 9/19/06; Ord. No. 12-18(R), 11/20/12)

Sec. 19-74. Responsibility for fees and charges.

(a) All fees and charges for collection service shall be the responsibility of the owner of the premises served. If someone other than the owner occupies the premises, and such person is a recipient of the service and is responsible for the payment of such charges through agreement with the owner and the county, the county will bill such person with the consent and at the written direction of the owner. However, the owner of the premises served shall be responsible for billings of services even if the owner is not the recipient of the service.

(b) When title to premises is conveyed from one owner to another, the service charges for the billing period in which the premises is conveyed shall not be prorated by the county except as provided below and shall become the obligation of the owner of the property on the first day of the period for which service was billed.

(c) Service may be added or canceled at any time, but no proration in fees for less than one (1) month will be made for either added or canceled service.

(Ord. No. 14-8, 5/20/14)

Sec. 19-75. When bills to be paid; overdue accounts.

The fees and charges established in this article shall be due upon receipt of the statement rendered by the county and shall be considered delinquent thirty (30) days following the billing date. A late charge of ten percent (10%) of the amount due or ten dollars ($10.00), whichever is greater, shall be added to all service charges when they are first considered delinquent. Interest at the rate of ten percent (10%) per annum shall be charged on the aggregate of the payment and penalty due beginning with the date the penalty is applied. If any bill shall not be paid within thirty (30) days of the billing date, the account may be forwarded to the treasurer for collection, and county collection services to the property shall cease.
(Ord. No. 08-5, 5/20/08)

Sec. 19-76. Failure to receive bill no excuse.

Failure to receive a bill for service charges shall not exempt any person from liability for payment of bills or from the provisions of this article. It shall be the responsibility of the owner, occupant, or consumer to notify the county of the failure to receive a bill for any reason and to advise the county whenever it is suspected that charges for services are improperly billed.

Sec. 19-77. Charge to be assessed for checks returned from bank for insufficient funds or other reasons.

When a check received in payment of service charges or fees is returned by the bank for insufficient funds or any other reason, a service charge of thirty-five dollars ($35.00) shall be made for each returned check. This charge is to defray the administrative costs to the county of handling and processing returned checks.
(Ord. No. 00-6(R), 6/6/00; Ord. No. 04-31, 1/18/05)

Sec. 19-78. Reductions in fees and charges for qualifying persons.

(a) The provisions of this section shall be administered by the county administrator. The county administrator is hereby authorized to prescribe, adopt, promulgate and enforce such rules and regulations, in conformity with the general provisions of this section, as may be reasonably necessary to determine qualifications for reduced fees and charges. The county administrator shall make such inquiry of persons seeking such reduced fees and charges requiring answers under oath as may be reasonably necessary to determine qualifications therefore, as specified in this section.

(b) When all those persons residing in a dwelling, have an aggregate annual income of less than fifty percent (50%) of the median income adjusted for family size for *York County* as published from time to time by the United States Department of Housing and Urban Development, the occupants shall be eligible for the reduced rates for fees and charges set out in section 19-73, upon application therefore, and approval of such application by the county administrator.

(1) Any person claiming eligibility for reduced rates under this subsection shall file annually with the county administrator on forms to be supplied by the county, an affidavit setting forth the names of the persons occupying the dwelling, and the aggregate annual income of all such persons during the immediately preceding calendar year.

(2) For purposes of this section "annual income" means total annual cash receipts before tax, including money wages and salaries before any deductions; net receipts from self-employment following deduction of business expenses only; regular payments from any source of retirement to include Social Security; regular payments from unemployment compensation, worker's compensation, strike benefits from union funds, veteran's benefits, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income and General Assistance); alimony; child support; military family allotments; other regular support from an absent family member or someone not living in the household; regular insurance or annuity payments; income from dividends, interest, rent, royalties or periodic receipts from estates or trusts. "Annual income" shall not include food or rent in lieu of wages;

capital gains, any assets drawn down as withdrawals from a bank, sale of property, a house or a car; tax refunds; gifts; lump-sum inheritances; one-time insurance payments or compensation for injury. Also excluded is the value of fringe benefits from employment; and such federal programs as Medicaid and food stamps.

(3) Changes in respect to income or other factors occurring during the calendar year for which an affidavit is filed under this section and having the effect of exceeding or violating the limitations and conditions provided in this section shall nullify any eligibility for reduced rates for the then current calendar year.

(4) Once a person has been determined to be eligible for reduced rates, in lieu of the annual filing of an application, the person shall only be required to refile such application every three (3) years if during each of the two (2) intervening years the person files a certification on a form provided by the county certifying that no information contained on the last application has changed so as to violate the income or eligibility requirements of this section.

(c) Any applicant making a false statement to obtain reduced rates under this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars ($200.00) and loss of eligibility for reduced rates for the calendar year following conviction.

CODE OF THE COUNTY OF YORK

Chapter 20

STREETS AND ROADS*

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*__Cross reference—__Abandoning domestic animals in right-of-way of street or road, § 4-4; location of stables near public roads, § 4-18; building regulations, Ch. 7: erosion and sediment control, Ch. 10; motor vehicles and traffic, Ch. 15; discharging firearms, etc., near roads within Marlbank Farm, § 16-7; littering public or private property, § 19-5; parking taxicab on highway outside of assigned taxicab stand, § 22-7; zoning ordinance, Ch. 24.1; streets in subdivisions, Ch. 20.5, § 4-13 et seq.

ARTICLE I. IN GENERAL

Sec. 20-1. Certain ordinances relating to streets, etc., not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance opening, relocating, closing, altering or naming any street, road, highway or alley, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 20-2. Trains obstructing crossing.

(a) It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct, for a longer period than five (5) minutes, the free passage on any street or road, by standing cars or trains across the same, except a passenger train while receiving or discharging passengers, but a passage way shall be kept open to allow normal flow of traffic; provided that, when a train has been uncoupled, so as to make a passage way, the time necessarily required, not exceeding three (3) minutes, to pump up the air after the train has been recoupled shall not be included in considering the time such cars or trains were standing across such street or road.

(b) Any railroad company, receiver or trustee violating any of the provisions of this section shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00); provided that, the fine may be one hundred dollars ($100.00) for each minute beyond the permitted time, but the total fine shall not exceed five hundred dollars ($500.00).

(c) This section shall not apply when a train is stopped due to breakdown, mechanical failure or emergency.

Secs. 20-3—20-20. Reserved.

ARTICLE II. BARRIERS FOR ENTRANCES TO CERTAIN LAND FROM PUBLIC STREET OR ROAD

Sec. 20-21. Definitions.

As used in this article, the following words and terms shall have the meaning ascribed to them in this article:

Barrier. A kind of fence, at least twenty-four inches (24") high, to obstruct and block the movement of motor vehicles or other things. “Barrier” shall include an earthwork constructed to obstruct passage which shall be grass seeded.

Fence. A structure having a minimum height of twenty-four inches (24") erected across any trail entrance, road or right-of-way to prevent passage in or out.

Gate. A moveable framework or solid structure, at least twenty-four inches (24") high, that swings on hinges and controls the entrance or exit to or from land.

Motor vehicle. Every vehicle which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including every device in, upon or by which any person or property is or can be transported or drawn upon a highway, street or road.

Overgrown. Overspread or covered with herbage, foliage or excessive growth of any kind.

Timber. Growing timber or trees, collectively.

Wooded. Covered with woods or trees.

Sec. 20-22. When required.

(a) After investigation and determination of need by the county administrator, and upon written notice by him, any person owning or leasing land upon which a pit of any kind is located or overgrown, wooded or timber land in the county shall erect and maintain a gate, barrier or fence at each entrance, road or trail leading to such land from any public street or road.

(b) A notice given pursuant to this section shall be complied with within thirty (30) days and the gate, barrier or fence erected pursuant thereto shall thereafter be maintained by the owner or lessee of the land.

Sec. 20-23. To be kept closed and secure.

Each gate, barrier or fence required by this article shall be kept closed and in a secure manner so as to bar entry to any motor vehicle, other than those of the owner or his agents, lessees or licensees possessing the legal means to open or remove the same for ingress or egress while going on or leaving the land.

Sec. 20-24. Removing, damaging or destroying.

It shall be unlawful for any unauthorized person to remove, damage or destroy any gate, barrier or fence erected pursuant to this article.

Sec. 20-25. Violations of article.

Any person who violates any of the provisions of this article shall be guilty of a Class 2 misdemeanor.

Sec. 20-26. Exemption for article.

In no event shall this article apply to any road, trail, lane or entrance leading directly to any occupied residence on the property, unless the same becomes vacant for a period exceeding sixty (60) days and therafter remains vacant.

Sec. 20-27. Article does not limit county's power relative to nuisances.

Nothing in this article shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement.

Secs. 20-28—20-30. Reserved.

ARTICLE III. STREET ADDRESS NUMBERING SYSTEM*

Sec. 20-31. Establishment of a numbering system.

A uniform system is hereby established for numbering buildings and assigning street addresses on all streets, avenues, and public ways in the county. Property shall be numbered in accordance with the provisions set forth in this article.

Sec. 20-32. Purpose of numbering system.

The purpose of this article is to provide for a uniform county-wide system for assigning street numbers to all principal buildings in the county to assist fire and rescue companies, law enforcement agencies, the postal service, and other organizations in the timely and efficient provision of their services to residents and businesses of the county.

Sec. 20-33. Administration.

(a) The county administrator or his designated agent is hereby designated as the agent responsible for the administration, implementation and enforcement of this article.

(b) The agent shall establish street address numbers in accordance with guidelines established herein as follows:

(1) Street addresses shall be assigned by the agent to each lot on new final subdivision plats at the time of recordation. The agent shall then notify the respective developer of these addresses.

(2) The agent shall undertake a systematic renumbering program for streets within the county in accordance with the policies and a guideline established herein. In the interim, as building permit applications are filed for development on parcels along streets which have not yet been systematically renumbered, the agent shall determine and assign an appropriate street address number for such development prior to approval of such building permit.

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*__Cross reference—__Building regulations, Ch. 7; fire prevention and protection, Ch. 11; water utilities, Ch. 22.7; building permits, Ch. 24.1, § 10-3; final subdivision plats, Ch. 20.5, § 6-1.

(c) As street address numbers are determined and assigned by the agent as provided above, such number shall be recorded in an official street number index and atlas to be maintained by the agent and kept available for reference in the office of real estate assessment and in the office of the department of code compliance. No building permit shall be approved until a street address has been determined and assigned from the index map and atlas or, in the absence of a listing for that particular parcel in the official index, until such building permit application has been referred to the agent for a street number determination.

(d) The affected property owner or current occupant shall be notified by the agent in writing of any address change. The property owner shall be responsible for notifying the Postal Service, utility companies and other interested parties of any address change or new address.

(e) Within sixty (60) days after the receipt of written notification of change of address, the owner or occupant shall affix/display the assigned number as prescribed herein.

(f) It shall be the duty of such owner or occupant, upon affixing the new number, to remove any different address number. The cost of the new numbers shall be the responsibility of the property owner.

Sec. 20-34. Determination of street address numbers.

(a) Address numbers shall be based on the location of an individual parcel within a block. For the purpose of this ordinance, blocks shall be determined as follows:

(1) Each segment of a street formed by intersecting streets shall be considered a separate block provided however, that where the distance between intersections is more than five hundred feet (500'), each five-hundred-foot interval shall establish a separate block.

(2) The above provision notwithstanding, blocks within subdivisions shall be construed to be the segment of a street between intersections.

(b) Except as otherwise specified herein, street address numbers shall be determined in accordance with the following:

(1) Proceeding from the point of beginning, even numbers shall be assigned to the parcels situated on the right sides of streets, and odd numbers shall be assigned to left sides.

(2) Numbering series shall begin with the number 100, and shall begin as follows:

a. Where a street begins at an arterial or collector road, then street numbering shall begin at that point of intersection.

b. Where a street crosses an arterial or collector road, or when a street connects and terminates at arterials or collector roads, then street numbering shall begin at the southernmost or westernmost end of that street. Provided, however, that where possible, street prefix designations (north, east, etc.) Shall be assigned to intersecting streets having the same name on either side of the arterial or collector and both segments shall be numbered as prescribed hereinabove, pursuant to section 15.2-2019, Code of Virginia (1950), as amended.

(3) Numbers shall increase consecutively from said point of beginning, with two (2) numbers (one even and one odd) assigned or reserved for every fifty feet (50') of street frontage for single-family residential areas, and two (2) numbers reserved for every twenty-five feet (25') of frontage for commercial and multi-family area.

(4) Only those properties which have a principal structure shall be assigned a street address. Numbers shall be reserved, however, for vacant parcels in accordance with the intervals described above; provided, however, that in platted subdivisions, consecutive street numbers shall be assigned to consecutive lots rather than at the prescribed intervals. Additional numbers shall be reserved for over-sized lots within subdivisions based on zoning district frontage requirements to accommodate potential future divisions.

(c) For multi-family, commercial and similar development where density of development may render the above described addressing intervals ineffective, a building or building group may be assigned a single number and a numerical or alphabetical suffix may be assigned to each dwelling unit, business, or establishment within such building or building group.

(d) Nothing contained herein shall be construed to require the renumbering of existing streets merely because the existing even and odd numbers are transposed, nor shall it be required that streets within existing subdivisions be renumbered unless a substantial problem with existing addresses has been identified by the agent.

(e) Where major roads enter the county from another jurisdiction, street address numbers shall be assigned as a continuation of the numbering series used in that jurisdiction.

(f) In applying the guidelines specified herein, the agent shall have the authority to make minor adjustments and modifications to ensure a logical and efficient street address system.

Sec. 20-35. Size and location of street address numbers.

(a) Street address numbers for residences shall not be less than three inches (3") in height and shall be made of a durable and clearly visible material. The numbers shall be conspicuously placed on, above, or at the side of the main entrance so that the number is discernible from the street. Whenever a building is more than fifty feet (50') from the street, or when the entrance is not visible from the street, the number shall be placed along a walk, driveway, or another suitable location so that the address number is discernible from the street.

(b) Street address numbers or letters shall be of a contrasting color to the background on which they are mounted.

(c) All commercial and industrial structures shall display street address numbers of not less than four inches (4") in height as follows:

(1) When possible, the number shall be displayed over the main entrance to the structure.

(2) There shall be no other wording or numbering within two feet (2') of the building number.

(d) Apartments, townhouses, shopping centers or other similar groupings where only one number is assigned shall display such number at the main entranceway. Said address numbers shall have a minimum height of ten inches (10"). Numbers for individual units or establishments within the

complex shall be displayed on, above or to the side of the main doorway of each unit or establishment.

Sec. 20-36. Enforcement.

(a)) Whenever the agent has reason to believe there has been a violation of any provision of this article, he shall give notice of such violation to the person failing to comply and order said person to take corrective measures within thirty (30) days from the date of notification.

(b) If such person fails to comply with the duly issued order, the agent shall initiate necessary actions to terminate the violation through criminal and/or civil measures.

Sec. 20-37. Penalties.

Any violation of any provision of this article shall constitute a Class 4 misdemeanor. Subsequent to the thirty-day period following notification of violation, each day of violation shall constitute a separate violation.

CODE OF THE COUNTY OF YORK

Chapter 20.5

SUBDIVISIONS

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ARTICLE I. GENERAL PROVISIONS

Sec. 20.5-1. Title.

This chapter shall be known and may be cited as the "Subdivision Ordinance of York County, Virginia," or simply as the "Subdivision Ordinance" when, by its usage, its applicability to York County, Virginia is implied or understood.

Sec. 20.5-2. Purpose.

The purpose and intent of this chapter is to establish procedures and standards which support and guide the proper subdivision of land in York County, Virginia, and serve the following purposes:

(a) To protect and promote the public health, safety, and general welfare of the county and its citizens.

(b) To guide the future growth and development of the county.

(c) To provide for adequate light, air, privacy, and healthful conditions by preventing overcrowding of the land and undue congestion of population.

(d) To protect and promote reasonable safety from fire, flooding, and other natural and manmade disasters.

(e) To protect the character and economic stability of all parts of the county by encouraging the orderly and beneficial development of land and by minimizing potential conflicts among the uses of land.

(f) To provide for the coordination of streets and other manners and modes of transportation through the dedication or reservation of public rights-of-way so that congestion and safety problems can be avoided.

(g) To ensure the adequacy and maintainability of public utilities and facilities through the dedication or reservation of easements and extensions.

(h) To establish reasonable standards for the design and layout of subdivisions and to ensure proper legal descriptions and monumentation of subdivided land.

(i) To prevent the degradation of the natural environment, and especially the Chesapeake Bay, by encouraging the wise management and use of natural resources including the preservation of environmentally sensitive natural features and land areas and ensuring that no more land is disturbed than is absolutely essential to support the proposed development.

(j) To preserve the natural beauty and features of the county and to ensure that development of land is compatible with these features.

(k) To promote the provision of open spaces through the efficient and harmonious design and use of land.

(l) To ensure that land is developed in general conformance with the comprehensive plan within the guidelines set forth in the zoning ordinance.

Sec. 20.5-3. Effective date.

(a) This chapter shall be effective on December 1, 1991, at which time, Appendix B, Subdivision Ordinance, York County Code, and all amendments thereto shall be repealed.

(b) The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county, under any provision in effect prior to the effective date of this chapter, unless expressly provided for in this chapter.

(c) Any subdivision for which a plat has received written approval prior to the effective date of this chapter and for which a final plat is recorded within one (1) year of the date of such approval, may be developed in accordance with the subdivision ordinance in effect on the date of such approval.

Sec. 20.5-4. General rules of interpretation.

For the purpose of this chapter, certain words and terms shall be interpreted as follows:

(a) Words used in the present tense include the future tense; words in the singular include the plural, and the plural includes the singular unless the obvious construction and context indicates otherwise.

(b) The word "SHALL" is a mandatory requirement; the words "MAY" and "SHOULD" are permissive requirements.

(c) The term "PERSON" includes individuals, partnerships, corporations, clubs and associations.

(d) The word "INCLUDES" and its various forms does not limit a term to the specified examples, but is intended to extend the term's meaning to all instances or circumstances of a similar kind, character, or class.

(e) Any reference to "THIS CHAPTER" or "THIS ORDINANCE" shall mean the Subdivision Ordinance of York County, Virginia and all amendments hereto; any reference to "THIS CODE" shall mean the Code of the County of York, Virginia and all amendments thereto.

(f) References to sections of the Code of Virginia are applicable as to the effective date of this chapter. Subsequent changes to those sections, including renumbering, which do not result in a change in content or effect, shall be deemed to be incorporated herein, *mutatis mutandis*.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-5. Definitions.

For the purpose of this chapter, certain words and terms shall be interpreted as follows:

Agent. The county administrator or his designee.

Arborist. Any individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees. This definition shall also incorporate the term urban forester.

Architect. Any individual licensed by the Commonwealth of Virginia to practice architecture.

Architect, landscape. An individual certified by the Commonwealth of Virginia to practice landscape architecture.

Average daily traffic (ADT). The average number of vehicles per day which pass over a given point on a roadway.

Best management practice (BMP). A practice, or combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Block. Land containing lots which are bounded by streets or a combination of streets and public lands, railroads, rights-of-way, shorelines, or boundaries of the county.

Board. The Board of Supervisors of York County, Virginia.

Buffer. An area, fencing, landscaping, or a combination thereof used to shield or block noise, lights, glare, pollutants, or other potential or actual nuisances. When located within a Chesapeake Bay Preservation Area or Watershed Protection Area, buffer shall mean an area of natural or established vegetation to protect other components of a resource protection area, reservoirs and state waters from significant degradation due to land or other disturbances.

Caliper. The diameter of a tree trunk measured six inches (6") above ground level for nursery stock and four and one-half feet (4½') above ground level for naturally occurring trees.

Central water system. A water system in which all connections in the subdivision are served by one (1) or more water sources through a common distribution system owned and operated by the county or other governmental entity, including all structures, hydrants, property, equipment and appurtenances used in the collection, storage, and distribution of water.

Certificate of occupancy. A document issued by the county permitting the occupancy or use of a building.

Channel. The bed and banks of a watercourse which conveys the perennial or intermittent flow of that watercourse.

Chesapeake Bay Preservation Area. Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-70 et seq.) and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Management Area (RMA) and a Resource Protection Area (RPA).

Commission. The York County Planning Commission.

Condominium. A building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis and which has been created by the recordation of condominium instruments pursuant to the provisions of chapter 4.2 of title 55, Code of Virginia.

Condominium association. The community association which administers and maintains the common property and common elements of a condominium. Title to the common property is held on a proportional, undivided basis by the condominium owners.

County administrator. The County Administrator of York County, Virginia as appointed by the board.

County attorney. The County Attorney of York County, Virginia as appointed by the board.

Cul-de-sac. A minor street with only one outlet and having a circular turnaround at the opposite end for the safe and convenient reversal of traffic movement.

Declaration. Any instrument, however denominated, recorded with the clerk of the circuit court of the county that imposes on a property owner's association maintenance or operational responsibilities for common areas and creates the authority in the property owner's association to impose on lots, or on the owners or occupants of such lots, or any other entity, any mandatory payment of money in connection with the provision of maintenance or services, or both, for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. The term shall include any amendment or supplement to the instruments described herein. It shall not, however, include a declaration of a condominium, real estate cooperative, timeshare project or campground.

Design hour. The worst-case traffic situation on a given street or within a roadway network or system expected to occur within a one-hour period during a weekday in the design year.

Design year. The year in which the project is anticipated to be completely constructed and occupied, or twenty (20) years from initial development, whichever shall be later.

Detention basin. A manmade or natural water impoundment designed to collect surface and sub-surface water in order to impede its flow and to release it gradually at a rate not greater than that existing prior to the development of the property, into adequate natural and/or manmade outlets or channels. Also referred to as a "dry pond."

Development. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.

Drainage. The removal of surface water or groundwater from land by drains, ditches, piping, grading, or other means.

Drainage facility. Any component of the drainage system.

Drainage structure. Any manmade component of the drainage system.

Drainage system. The system through which water flows from the land including all drainage structures, drainage facilities, watercourses, waterbodies and wetlands.

Duplex. A dwelling unit for single-family occupancy attached to one other single-family dwelling unit by a common vertical fire-resistant wall with each dwelling unit located on a separate lot.

Easement. A grant by one property owner to another, recorded with the clerk of the circuit court, of the right to use the described land for specific purposes.

Engineer. An individual licensed by the Commonwealth of Virginia to engage in the practice of engineering.

Environmental constraints. Features, natural resources, or land characteristics that are sensitive to development activities and/or installation of improvements and may require conservation measures and/or the application of creative development techniques to prevent degradation of the environment. In some instances, environmental constraints may limit or preclude development.

Erosion. The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, or gravity.

Fire department. The York County Fire and Rescue service.

Floodplain. A land area likely to be inundated by a flood.

Geodetic control network. A system of survey monuments whose precise positions have been established and from which additional surveys can be derived. The geodetic control network in the York County has two (2) components:

(a) *Primary network.* A system of one hundred thirty (130) survey monuments located throughout the county the precise positions and elevations of which have been established by rigorous ground and global positioning surveys, and which are fully referenced to the *Virginia Coordinate System of 1983 (South Zone)* and the *1983 North American Datum.*

(b) *Secondary network.* A system of survey monuments located in and on subdivision boundaries and rights-of-way the positions of which have been established by ground surveys.

Health department. The Commonwealth of Virginia Department of Health or an authorized official thereof.

Highway/roadway capacity. The maximum number of vehicles that can be expected to travel over a given section of roadway or a specific lane during a given time period under prevailing roadway conditions and prevailing traffic patterns and conditions.

Impervious surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.

Improvements. All public and quasi-public utilities and facilities including streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, monuments, signs, sidewalks, streetlights, and all other similar features required by this chapter or by the zoning ordinance.

Landscaping. The improvement of a lot or parcel with grass, ground covers, shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include earthforms, pedestrian walks, flower beds, ornamental objects such as trellises, fountains or statues, and other natural features.

Land surveyor or surveyor. An individual certified and licensed by the Commonwealth of Virginia to engage in the practice of land surveying.

Level of service (LOS). A set of criteria which describes the degree to which an intersection, roadway, lane configuration, weaving section or ramp serves peak period and/or daily traffic.

Lot. A unit, division, or piece of land; generally created as a result of subdivision of property. The term is synonymous with plot, parcel, premises, and site.

Lot, corner. A lot abutting two (2) or more streets at their intersection.

Lot, flag. A lot which does not abut a public street other than by its driveway or other strip of land not meeting the required minimum frontage standards.

Lot, infill. A vacant lot for new development which is located within a built-up area.

Lot, interior. A lot other than a corner lot.

Lot, through. An interior lot abutting two (2) or more streets which do not intersect at the boundaries of the lot.

Lot frontage. The distance along a street between one side lot line to another.

Lot of record. Any lot created by the recordation of a plat in the office of the clerk of the circuit court, provided that:

(a) Such lot and plat complied fully with all regulations in the subdivision ordinance and zoning ordinance in effect at the time of such recordation; or

(b) Such lot and/or plat was not in conformance with the regulations contained in the subdivision ordinance or zoning ordinance at the time of said recordation, but has become conforming by subsequent amendment of said regulations.

Monument or survey monument. A permanent structure or edifice used or installed to mark the position of a survey station.

Multiplex. A dwelling unit for single-family occupancy consisting of a combination (back-to-back, side-to-side, or back-to-side) of at least three (3) and not more than six (6) such units with each unit having at least two (2) exterior exposures, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.

Open space. An area intended to provide light and air, and designed, depending on the situation, for environmental, scenic, and/or recreational purposes. The computation of open space shall not include driveways, parking lots, or other surfaces designed or intended for motorized vehicular traffic.

Open space, common. Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, enjoyment and use of all the residents or property owners of the development.

Parcel identification number. A number or series of numbers assigned by the county which uniquely identifies each parcel of land in the county.

Peak period. (also peak hour) The period or hour in which the heaviest traffic volume occurs on a roadway or within a network.

Planting area. The area within which vegetation is installed which provides a sufficient bed to maintain and ensure the survival of trees and other vegetation.

Plat. A plan or map of a tract or parcel of land, meeting the requirements of this chapter, which is to be or has been subdivided. As a verb, the term is synonymous with subdivide.

Plat, record. A plat prepared and approved in accordance with this chapter which meets the Standards for Recorded Instruments of the Virginia State Library Board and which has been or is intended to be submitted to the clerk of the circuit court for recordation.

Preliminary plan. A map or plan indicating the proposed layout of a development together with related information that is submitted to the county for preliminary approval.

Property, subdividable. A unit or units of land of such size and dimensions that it may be subdivided into two (2) or more lots.

Property owners association. As defined in section 55-508, Code of Virginia, a property owners association means an incorporated or unincorporated entity that is referred to in a declaration. The term includes homeowners associations, however, it shall not include condominium, cooperative, timeshare, or membership owners associations.

Public sewer and/or water. A sewer or water system owned and operated by a municipality, county, service authority, or sanitary district.

Reserve strip. A narrow piece of land adjacent to a public right-of-way, the purpose of which is to prevent access to said public right-of-way. This term does not include the reservation of property solely for future widening of the road right-of-way.

Resource Management Area (RMA). The component of the Chesapeake Bay Preservation Area that is not classified as a Resource Protection Area. The RMA is contiguous to and 500-feet landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.

Resource Protection Area. The component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100-feet in width located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes that they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

Retention basin. A pond, pool, or basin used for the permanent storage of water runoff. Also referred to as a "wet pond."

Right-of-way. The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, curbing, gutters, sidewalks, shoulders, and sufficient land for the maintenance thereof.

Roadway geometrics. The alignment, curvature, horizontal and vertical grade, shoulder and drainage structure configuration, and other similar details relating to a roadway or segment thereof.

Sanitary sewer. Pipe conduits used to collect and carry away domestic or commercial/industrial sewage from the generating source to treatment plants. Storm, surface and ground waters are not intentionally admitted into sanitary sewers.

Sedimentation. A deposit of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

Septic system. An underground system with a septic tank and one (1) or more drainlines depending on volume and soil conditions which is used for the decomposition of domestic wastes. This type of system may also be referred to as a soil absorption system.

Setback. The required minimum distance from any street right-of-way, lot line, or other designated line which establishes the area within which buildings or structures may be erected.

Setback line. A line or lines showing the required minimum front, rear, and side setback distances as established in the zoning ordinance.

Shrub. A relatively low-growing woody plant typified by having several permanent stems instead of a single trunk. For purposes of this chapter, shrubs shall be further defined as follows:

(a) *Deciduous shrub.* Any shrub which sheds its foliage during a particular season.

(b) *Evergreen shrub*. Any shrub which retains its foliage throughout the entire year.

Sight triangle. A triangular-shaped portion of land established at street intersections and entrances onto streets in which nothing is permitted to be erected, placed, planted or allowed to grow in a manner that limits or obstructs the sight distance of motorists, bicyclists or pedestrians traversing or using the intersection or entrance. (See Figure VI-A in Appendix A).

Street. An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the Department of Transportation, or approved under the terms of the zoning ordinance as a private transportation system. A street shall provide vehicular and pedestrian access to property for all purposes of travel, transportation and/or parking to which it is adopted, devoted, or dedicated. The term is synonymous with road, lane, drive, avenue, highway, roadway, thoroughfare, or any other term of like or common meaning. For the purposes of this chapter, streets shall be further defined and classified as follows:

(a) *Access street*. The lowest order of street, designed to serve low volumes of traffic at low operating speeds. As its primary function is to provide access to individual lots, access streets should carry only the volume of traffic generated on the street itself. Cul-de-sacs and other terminal streets are typical of this order of street.

(b) *Subcollector street*. The second order of street, designed to carry moderate volumes of traffic, at the same low operating speeds as access streets. Such streets collect traffic from access streets as well as provide access to individual lots. Long cul-de-sacs and other terminal streets may be within this order of streets where their traffic volumes exceed the standards for access streets.

(c) *Collector street.* The highest order of street generally permitted within a residential subdivision, designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The class is further divided into "major collector" and "minor collector" based on traffic volumes.

(d) *Arterial street.* Includes streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets and roadways is to carry relatively large volumes of traffic at higher speeds. Direct residential lot access is prohibited while commercial or

industrial lot access is controlled and limited to high trip volume generators. Like collector streets, the arterial class is further divided into "major arterial" and "minor arterial" based on traffic volumes.

(e) *Expressways and freeways.* The highest order of roadway, designed exclusively for unrestricted movement of traffic. Access is only with selected arterials by means of interchanges.

Subdivider. An individual, corporation, partnership, or other entity owning any property to be subdivided.

Subdivide/subdivision. The division of a lot, tract, or parcel of land into two (2) or more lots, parcels, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership.

Townhouse. A type of multiplex for single-family occupancy constructed in a row of at least three (3) and not more than six such units, with each having its own front and rear or side exterior access, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.

Traffic, background. The number of trips existing or projected to exist on a roadway or roadway system without the proposed land use under study, i.e., traffic not directly or indirectly caused or attracted by the analyzed land use.

Transportation, department of. The Virginia Department of Transportation (VDOT).

Tree. A woody perennial plant generally with one main stem or trunk, but including multiple stemmed plants, which develops many branches, generally at some height above the ground. For the purposes of this chapter, trees shall be further defined as follows:

(a) *Deciduous tree.* Shade or flowering/ornamental tree which sheds its foliage during a particular season.

(b) *Evergreen (or coniferous) tree.* Any Tree which retains its green foliage year round.

(c) *Heritage tree:* Any tree which has been designated by ordinance of the board of supervisors as having notable historic or cultural significance to any site or which has been so designated in accordance with an ordinance adopted pursuant to section 15.2-2306 Code of Virginia.

(d) *Mature tree*. Any deciduous or coniferous tree with a minimum diameter (caliper) of fourteen inches (14") when measured four and one-half feet (4½') above ground level.

(e) *Memorial tree*. Any tree which has been designated by ordinance of the board of supervisors to be a special commemorating memorial.

(f) *Significant tree.* Any deciduous or coniferous tree with a minimum diameter (caliper) of twenty-two inches (22") when measured four and one-half feet (4½') above ground level.

(g) *Specimen tree.* Any tree which has been designated by ordinance of the board of supervisors to be notable by virtue of its outstanding size and quality for its particular species.

Tree cover. The area directly beneath the crown and within the dripline of a tree.

A tree crown. The aboveground parts of a tree consisting of the branches, stems, buds, fruits, and leaves. Also referred to as "tree canopy."

Trip. A single or one-way vehicle movement to or from a property, site, driveway or study area.

Trip assignment. The assignment of vehicle trip volumes (site-generated and background) to the roadway network around a development, and the assignment of site-generated volumes to individual and specific driveways/local streets within the development. The process entails analyzing all trips, both entering and exiting.

Trip ends. The total number of trips entering plus the total number of trips exiting a site over a designated period of time.

Trip generation. The number of trip ends caused, attracted, produced and otherwise generated by a specific land use, activity or development.

Wetlands. Wetlands are divided into two (2) classes:

(a) *Nontidal wetlands*. Those wetlands other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U. S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, 33 C.F.R. 328.3b, as may be amended from time to time.

(b) *Tidal wetlands.* Vegetated and nonvegetated wetlands as defined in section 28.2-1300 of the Code of Virginia.

Woodland. A tract of land dominated by trees but usually also containing woody shrubs, grasses, and other vegetation. For purposes of this chapter, the term woodland shall incorporate woods, woodland areas, wooded areas, forest, forested areas and any other terminology commonly recognized to have the same meaning.

Woodline. Line of demarcation separating woodland from non-woodland areas. For purposes of this chapter the woodline shall be defined as the line surrounding woodland including the leading edge of the dripline of the trees contained therein plus fifteen feet (15').

Zoning administrator. The county administrator or his designee.

Zoning ordinance. The Zoning Ordinance of York County, Virginia including all amendments thereto.
(Ord. No. 05-33, 12/20/05)

Sec. 20.5-6. Applicability.

This chapter shall apply to all subdivisions of land in the county.

(a) No person shall subdivide any land without making and recording a plat of such subdivision and fully complying with the provisions of state law and this chapter.

(b) No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.

(c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded, as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto, provided however, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(d) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent, as required herein, nor shall any instrument which has the effect of creating a subdivision be filed or recorded until such has been approved by the agent.

Sec. 20.5-7. Administration and enforcement.

(a) The agent is hereby designated to administer the provisions of this chapter on behalf of the board and shall approve or disapprove plats under the terms of this chapter. In the performance of his duties, the agent may request verbal or written opinions or decisions from other departments or agen-

cies considering the details of any submitted plat. This authority regarding opinions and decisions shall have particular reference to the department of transportation and the health department.

(b) The agent, on behalf of the board, may institute, or cause to be instituted, any appropriate action or proceeding against any subdivider or other person who fails or refuses to comply with the provisions of this chapter.

(c) All departments, officials and public employees of the county who are vested with the duty or authority to issue permits or approvals under this chapter shall adhere and conform to the provisions of this chapter. Any such approvals or permits issued in conflict with the provisions of this chapter shall be null and void.

(d) No building permit shall be granted for construction on any lot created in violation of the provisions of this chapter.

Sec. 20.5-8. Violation and penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than five hundred dollars ($500.00) for each lot or parcel of land subdivided or transferred or sold in violation of this chapter. The description of such lot or parcel by metes and bounds or courses and distances in the instrument of transfer or other document used in the process of subdividing, selling or transferring shall not exempt the transaction from the penalties or remedies set forth herein.

Sec. 20.5-9. Conflicts with other provisions of law.

In addition to the requirements contained herein, all development shall comply with all applicable ordinances, requirements and permitting procedures of the various local, state, and federal review/regulatory agencies. This chapter is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, or any statute, regulation, or other provision of law. Where this chapter, or any provision herein, differs with any provision of any applicable ordinance, code, requirement or regulation, or other provision of law, whichever provisions are the more restrictive or impose the higher standards shall apply.

Sec. 20.5-10. Relationship to zoning ordinance.

(a) The zoning ordinance and the zoning map shall control the type and intensity of use of all property within the county. Particular reference is made to the minimum lot sizes and setback requirements, use restrictions, overlay districts, and cluster development regulations.

(b) The following types of development shall require a site plan to be approved in accordance with the provisions of the zoning ordinance prior to consideration of subdivision plats under the terms of this chapter:

(1) Townhouses

(2) Condominiums

(3) Multiplexes

(4) Shopping Centers

Sec. 20.5-11. Effect of private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility for enforcing such private easement, covenant, agreement or restriction is not implied herein to rest with any public official or body. When this chapter imposes a more restrictive standard than is required by the private contract, the provisions of this chapter shall control.

Sec. 20.5-12. Severability.

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth or the United States, or if the application thereof to any government, agency, person, or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the specific application thereof to any other government, agency, person, or circumstance.

Sec. 20.5-13. Fees.

Plans or plats shall not be deemed to have been filed until the appropriate fee has been paid. All checks shall be made payable to the treasurer of York County.

(a) Examination fee. There shall be a fee for the examination of every plan and plat reviewed under the terms of this chapter. All fees shall be paid at the time of filing the plan or plat for review.

(1) Preliminary plan. The fee for a preliminary plan shall be fifty dollars ($50.00) plus five dollars ($5.00) per lot.

(2) Development plan. The fee for a development plan shall be fifty dollars ($50.00) plus ten dollars ($10.00) per lot.

(3) Final plat. The fee for a final plat shall be fifty dollars ($50.00) plus five dollars ($5.00) per lot, plus an amount based on the total area contained in the plat, as follows:

First 70 acres	- $0.45/1000 sq. feet
Next 70 acres	- $0.30/1000 sq. feet
Remaining acreage	- $0.25/1000 sq. feet

The per-lot and acreage-based components of the fee for a final plat shall be waived by the agent when required final and record plat submissions are accompanied by digital files in a format and medium compatible with and readable by the county geographic information system. The agent shall be the final authority in determining compatibility and readability.

(b) Inspection fee. There shall be a fee for the inspection of improvements constructed as a part of the development of subdivisions. Said fee, in the amount of twenty-five dollars ($25.00) plus five dollars ($5.00) per lot, shall be paid prior to recordation of the record plat.

(c) Vacation of plat fee. There shall be a fee for processing an application to vacate a plat or part thereof. Said fee shall be exclusive of the costs of posting notice and advertisement as provided in section 15.2-2204, Code of Virginia, or recordation fees which may accrue. The costs shall be borne also by the applicant. The fee shall be in the amount of one hundred fifty dollars ($150.00) per plat which is proposed to be vacated and shall be paid upon application.

(d) Appeal/variance fee. There shall be a fee for the processing of an application to appeal the decision of the agent or to request a variance from the terms and conditions of this chapter. Such fee shall be exclusive of the costs of posting notice and advertisement as provided in section 15.2-2204, Code of Virginia, the costs of which shall also be borne by the applicant. The fee, in the amount of two hundred fifty dollars ($250.00) per request, shall be paid upon application.

(e) Variable site development fees. In addition to the fees enumerated above, the subdivider shall be required to pay other fees as may be applicable to the proposed development. Depending upon the needs of the subdivision and the desire of the subdivider that the county supply or arrange for certain signs, features or devices, these fees may include payments for construction, fabrication, installation, and/or maintenance of control and warning signs, streetlights, street identification signs, and other similar features, installations, or devices. The actual fees for such features, installations, devices, or maintenance thereof shall be established by the board and published by the county from time to time and shall reflect, as closely as possible, actual costs including labor. The official fee schedule shall be available for review and copying from the agent during normal working hours.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-14. Resubdivision same as subdivision.

Any change in a recorded subdivision plat that modifies, creates, or adjusts lot lines shall be approved in the manner and under the requirements provided herein. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage, or other public area or easement laid out or described in such plat is affected, the plat, or pertinent part thereof, shall be vacated prior to resubdivision.

Sec. 20.5-15. Separate ownership of lots to be subdivided.

Where the land covered by a subdivision includes two (2) or more parcels in separate ownership or trusteeship, and the lot arrangement is such that a property line is extinguished in the subdivision, each lot so situated shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Such deed shall be prepared by and at the expense of the subdivider and shall be recorded with the final plat.

Sec. 20.5-16. Accuracy standards for maps and plans.

All final plats and surveys, plats, plans or maps intended for eventual recordation and incorporation into the county geographical information system, shall be prepared to meet or exceed the Second Order, Class II Standards of the Federal Geodetic Control Committee as contained in *Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys, 1974, National Geodetic Survey*, as it may from time to time be amended.

Sec. 20.5-17. Amendments.

Amendments to this chapter shall be in accordance with the applicable provisions of the Code of Virginia.

Secs. 20.5-18—20.5-25. Reserved.

ARTICLE II. PROCEDURE

Sec. 20.5-26. Preapplication conference sketch plan.

Before the preparation of a preliminary plan for a subdivision, if required by this chapter, or a development plan if a preliminary plan is not required pursuant to sections 20.5-27 or 27.1, the subdivider is advised and encouraged to confer with the agent and such other agencies or departments as the agent may deem advisable relative to the terms of this chapter, the zoning ordinance, the comprehensive plan, and other pertinent ordinances and regulations. The purpose of such a preapplication conference is to assist the subdivider to gain a thorough understanding of all the requirements applicable to the particular property and to advise the subdivider of any recent, impending, or proposed changes in those requirements.

(a) For the purposes of this conference, the subdivider is encouraged to prepare and submit a sketch plan of the proposed subdivision for informal review and comment by the agent and such other agencies or departments as the agent may deem advisable.

(b) The sketch plan may be a pencil sketch on a 1"=100' scale topographic map of the property and should show the general location, arrangement, and dimensions of lots, streets, and other proposed improvements. The location, if any, of Chesapeake Bay preservation areas should be noted on the sketch.

A preliminary draft of the Natural Resources Inventory, as defined in Chapter 23.2, that shows the location, if any, of Chesapeake Bay Preservation and wetlands areas should accompany the sketch.

Sketch plans submitted for this conference and reviewed by the agent shall be nonbinding on both the subdivider and the county.

There shall be no fee for the review of a sketch plan and the agent, if so requested by the subdivider, shall provide written comments to the subdivider within thirty (30) days of the submission of a sketch plan.
(Ord. No. 05-33, 12/20/05; Ord. No. 14-24)

Sec. 20.5-27. Classification of subdivisions.

Subdivisions shall be classified as follows:

(a) *Public service lots, rights-of-way*. When a lot is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, county, other governmental or municipal entity, service authority, or sanitary district and title to such property passes at the same time as the plat is recorded, such lot shall be exempt from the requirements of this chapter except that the record plat shall adhere to the standards established in section 20.5-31(a) of this chapter. In the event that acquisition of a road right-of-way for a street, road or highway by the county or an agency or department of the Commonwealth of Virginia or the United States bisects an existing parcel, the result shall be deemed to constitute a lawful subdivision of the parcel only if both of the resulting parcels meet the minimum lot area and dimensional requirements specified for the zoning district in which located. In the event this is not the case, the parcel shall be deemed to remain a single parcel, despite the fact that it is bisected by a public right-of-way.

(b) *Minor subdivision*. A minor subdivision shall be a division of property into lots which does not create a new street or an extension of an existing street, including family subdivisions as defined in this chapter. However, if any division other than a family subdivision results in a lot or lots which, in the determination of the agent and based on the zoning classification of the property could be further subdivided, and such further subdivision would require the creation of a new street or the extension of an existing street, the division shall be defined and reviewed as a major subdivision. Family subdivisions shall be reviewed in accordance with the standards contained in section 20.5-34 of this chapter. A preliminary plan shall not be required for minor subdivisions.

(c) *Multiplex/townhouse/condominium subdivision*. A multiplex/townhouse/condominium subdivision shall be a division of property into lots for multiplex, townhouse or condominium development in ac-

cordance with a site plan approved pursuant to the requirements contained in the zoning ordinance. Neither a preliminary plan nor a development plan shall be required for multiplex/townhouse/condominium subdivisions; however, a site plan must have been approved and still be valid in accordance with the zoning ordinance prior to submission of a final plat for approval.

(d) *Planned development subdivision*. A planned development subdivision shall be a division of property in accordance with an overall development master plan approved by the board. A preliminary plan shall not be required for planned development subdivisions unless specifically required of a particular development in the ordinance or resolution approving the overall development master plan. Any requirements specifically imposed on a planned development by its approving ordinance shall be fully binding upon the subdivision. In the case of an affordable housing incentive program project (AHIP), the approving ordinance may authorize provisions less restrictive than those set out in this chapter, if deemed appropriate by the board to achieve the objective of the AHIP.

(e) *Boundary line adjustment*. A boundary line adjustment shall be a resubdivision of a part of an otherwise valid and properly recorded plat of subdivision, or of two (2) or more adjacent lots, where no additional lots are created and existing or platted streets, rights-of-way, public easements, and public improvements are unaffected by such action. Further, no private easements or private rights-of-way shall be relocated or altered without the recordation of appropriate documents effecting such relocation or alteration. Typically, a boundary line adjustment is a minor realignment of a single line between two (2) platted lots.

Neither a preliminary plan nor a development plan shall be required of boundary line adjustments provided, however, that nothing in this provision shall be interpreted to authorize the creation of a lot or lots which would otherwise be prohibited. Further, boundary line adjustments involving one (1) or more legally nonconforming lots shall not be permitted where the result of such adjustment would increase the degree of nonconformity or cause the lot to be buildable only with approval of an exception to the Chesapeake Bay Preservation Area requirements or other variance. Where the agent determines that the proposal goes beyond the intended minor realignment, he shall notify the subdivider, in writing, of such finding and, in so doing may require the submission of more detailed plans for review.

(f) *Major subdivision*. A major subdivision shall be any division of property which creates a new street, or extends any existing street, or any division of property which is not covered under any of the above provisions.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-27.1. Exception to preliminary plan submission requirement.

Other provisions of this chapter notwithstanding, and in accordance with section 15.2-2260.A. of the Code of Virginia, the submission of a preliminary plan shall not be required for any proposed subdivision involving fifty (50) or fewer lots. However, a subdivider may choose to prepare and submit such a plan and, if that is done, the plan shall be processed, reviewed, and acted on in accordance with the procedures and requirements set forth herein and, if approved, shall be and remain valid in accordance with terms of this chapter.

(Ord. No. 14-24, 11/18/14)

Sec. 20.5-28. Preliminary plan.

Any person desiring to subdivide land shall, unless exempted under the provisions of section 20.5-27 or 20.5-27.1, prepare and submit thirteen (13) copies (12 folded, 1 rolled) of a preliminary plan to the agent together with a completed application and the appropriate fee.

(a) *Initial review by agent.* Upon the submission of a preliminary plan together with a completed application, Natural Resources Inventory, and the appropriate fee, the agent shall, within five (5) working days, review the plan to ensure compliance with all submission requirements established by article III of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plans and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.

(b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposal with all applicable requirements of this chapter and other applicable ordinances, requirements, and regulations.

(1) The agent may transmit copies of the preliminary plan to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.

(2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the preliminary plan by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a preliminary plan which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the agent shall act upon the plan no later than thirty-five (35) days after the receipt of all comments or approvals of such state agency or agencies.

(3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information that is required to secure final approval of the preliminary plan and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy and identifying such modifications or corrections as will permit approval of the plan.

(4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the preliminary plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) copies (12 folded, 1 rolled) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original. In the review of a resubmitted preliminary plan solely involving a parcel or parcels of commercial real estate (which, for the purposes of this section, shall be deemed to include “industrial”), the agent shall consider only the deficiencies identified in the review of the initial plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. Failure to approve or disapprove a resubmitted plan for commercial real estate within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plan for commercial real estate, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent’s review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

(c) *Effect of approval.*

(1) Approval of the preliminary plan shall not constitute a guarantee of approval of either the development plan or the final plat.

(2) Approval of the preliminary plan shall constitute authorization for the subdivider to proceed with the preparation of development plans in accordance with the provisions of this chapter and the layout and design depicted on the approved preliminary plan.

(d) *Term of validity*.

The subdivider shall have one (1) year from the date of official notification of approval of the preliminary plan within which to file a development plan meeting all of the submittal requirements estab-

lished in article IV of this chapter for the subdivision or section thereof. Failure to do so shall make the preliminary plan approval null and void. The agent may, on written request of the subdivider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one (1) six-month extension of preliminary plan approval. However, notwithstanding the foregoing, any preliminary subdivision plan valid and outstanding as of January 1, 2011, shall not become null and void prior to July 1, 2017. Any other plan or permit associated with such plan extended by the preceding sentence shall likewise be extended for the same time period. Such extension shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

(Ord. No. 03-32, 8/5/03; Ord. No. 05-33, 12/20/05; Ord. No. 09-16, 8/18/09; Ord. No. 12-14, 9/18/12; Ord. No. 14-24, 11/18/14; Ord. No. 15-13, 9/15/15)

Sec. 20.5-29. Development plan.

The subdivider shall, unless otherwise provided by section 20.5-27 of this chapter, after receiving approval of the preliminary plan and within the time specified in section 20.5-28(d), submit thirteen (13) copies (12 folded, 1 rolled) of a development plan for the subdivision or section thereof prepared in accordance with article IV of this chapter to the agent together with the appropriate application and fee.

(a) *Initial review by agent.* Upon the submission of a development plan together with a completed application and the appropriate fee, the agent shall, within five (5) working days, review the plan to ensure compliance with all submission requirements established by article IV of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plans and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.

(b) *Review process*. Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposed design elements and physical improvements with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.

(1) The agent shall transmit copies of the development plan to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.

(2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the development plan by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a development plan which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the agent shall act upon the plan no later than thirty-five (35) days after the receipt of all comments or approvals of such state agency or agencies.

(3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information which shall be required to secure final approval of the development plan and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy, and an identification of such modifications or corrections as will permit approval of the plan.

(4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the development plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) copies (12 folded, 1 rolled) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original. In the review of a resubmitted development plan solely involving a parcel or parcels of commercial real estate, the agent shall consider only

the deficiencies identified in the review of the initial plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. Failure to approve or disapprove a resubmitted plan for commercial real estate within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plan for commercial real estate, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

(c) *Effect of approval.*

(1) Approval of the development plan shall constitute authorization for the subdivider to proceed with the preparation of final plats for those sections of the subdivision contained in the approved development plan in accordance with the provisions of article V of this chapter.

(2) Approval of the development plan shall, upon issuance of all necessary permits including, but not limited to, land disturbing permits and utility certificates to construct, constitute authority to commence development and construction activities which are in accordance with the approved development plan but only within such section or sections which have received approval. Nothing in this provision however, shall be interpreted to authorize the construction of any structure on any proposed lot other than such structures which are appurtenant to utility installations.

(d) *Term of validity.* The subdivider shall have one (1) year from the date of official notification of approval of the development plan within which to file a final plat for those sections contained in said plan meeting all of the submittal requirements established in article V of this chapter. Failure to do so shall make the development plan approval null and void. The agent may, on written request of the sub-divider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one (1) one-year extension of development plan approval. However, notwithstanding the foregoing, any development plan valid as of January 1, 2011, shall remain valid and not become null and void prior to July 1, 2017. Any other plan or permit associated with such plan extended by the preceding sentence shall likewise be extended for the same time period. Such extension shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

(Ord. No. 03-32, 8/5/03; Ord. No. 05-33, 12/20/05; Ord. No. 09-16, 8/18/09; Ord. No. 12-14, 9/18/12; Ord. No. 15-13, 9/15/15)

Sec. 20.5-30. Final plat.

The subdivider shall, unless otherwise prescribed in section 20.5-27 of this chapter, after approval of the development plan and within the time specified in section 20.5-29(d), submit thirteen (13) copies (12 folded, 1 rolled) of the final plat for those sections contained on the approved development plan to the agent for review and approval. The final plat shall be prepared in accordance with article V of this chapter and shall be submitted together with the applicable application and fee. The agent may, upon written request and for good cause shown, accept for review final plats before approval has been granted to development plans, however approval of a final plat requires that it fully conform with the approved development plan, if such a plan is required.

(a) *Initial review by agent*. Upon the submission of a final plat together with a completed application and the appropriate fee, the agent shall, within five (5) working days, review the plat to ensure compliance with all submission requirements established by article V of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plat and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.

(b) *Review process*. Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the plat with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.

(1) The agent shall transmit copies of the final plat to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.

(2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the final plat by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a final plat which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the agent shall act upon the plan no later than thirty-five (35) days after the receipt of all comments or approvals of such state agency or agencies.

(3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information which shall be required to secure final approval of the plat and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy, and identifying such modifications or corrections as will permit approval of the plat.

(4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the final plat prior to approval, the subdivider shall within sixty (60) days resubmit, without additional fee, eight (8) copies of the revised plat together with the original or a copy of any marked plats returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plat. The revised plat shall then be reviewed in the same manner and within the same time elements as was the original. The agent, for good cause shown, may grant an extension of the sixty (60) day time limitation, provided a written request is received from the subdivider no fewer than ten (10) working days prior to expiration of the term established herein. In the review of a resubmitted plat solely involving a parcel or parcels of commercial real estate, the agent shall consider only the deficiencies identified in the review of the initial plat that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. Failure to approve or disapprove a resubmitted plat for commercial real estate within the specified time periods shall cause the plat to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plat for commercial real estate, any deficiency in any proposed plat, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

(c) *Effect of approval.* Approval of the final plat shall constitute authorization for the subdivider to proceed with the preparation of record plats depicting the information contained on the approved final plat.

(d) *Term of validity*. The subdivider shall have six (6) months from the date of official notification of approval of the final plat within which to have the record plat filed and recorded by the clerk of the circuit court. Failure to do so shall make approval null and void, and the subdivider shall be required to return the approved copy of the final plat to the agent in order that it may be so marked. Reapproval shall require resubmission in full compliance with the regulations then in effect. Where the subdivision involves the construction of facilities to be dedicated for public use and the subdivider has commenced the construction of such facilities with surety approved by the agent, or where the

subdivider has furnished surety in accordance with Section 20.5-108 of this chapter, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement covering construction of required public improvements, whichever is greater. However, notwithstanding the foregoing, any final subdivision plat valid and outstanding as of January 1, 2011, shall not become null and void prior to July 1, 2017. Any other plan or permit associated with such plat extended by the preceding sentence shall likewise be extended for the same time period. Such extension shall not be effective unless any performance bonds and agreement or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

(Ord. No. 02-17, 9/17/02; Ord. No. 03-32, 8/5/03; Ord. No. 05-33, 12/20/05; Ord. No. 09-16, 8/18/09; Ord. No. 12-14, 9/18/12; Ord. No. 15-13, 9/15/15)

Sec. 20.5-31. Record plat.

The record plat shall be prepared and submitted to the agent no less than ten (10) working days prior to the anticipated date of recordation together with all required deed and plat recordation fees.

(a) *Submittal.* The subdivider shall provide three (3) reproducible copies of each plat sheet, clearly drawn in permanent black ink on .004 millimeter or thicker polyester drafting film with a matte finish on both sides, with the signatures of all owners and certification by a licensed land surveyor affixed to the plat(s) in permanent black or dark blue ink. The plat(s) shall meet the current *Standards for Recorded Instruments* of the Virginia State Library Board.

(b) *Review by agent*. Upon the submission of a record plat together with the appropriate recordation fee(s), the agent shall, within five (5) working days, review the plat to ensure full conformance with the approved final plat. Where the agent determines that any deviation exists from the approved final plat, the plats shall be returned to the subdivider with a written notice stating the specific reasons, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit approval of the plat.

(c) *Physical Improvements*. Where public physical improvements are required under the terms of this chapter, the record plat shall not be recorded unless the following conditions have been met:

(1) All public physical improvements required by this chapter and shown on the approved development plan shall have been installed and approved for conformance with the approved development plan and shall have been approved for acceptance by the county, department of transportation, the health department, and/or any other applicable agency or entity; or

In lieu of actual installation and approval for acceptance of such public physical improvements, the subdivider shall, in accordance with the provisions of article VII of this chapter, have executed an agreement and a performance guarantee to construct such physical improvements as depicted on the approved development plan within a specific time frame to be determined by the agent in consultation with those departments and agencies deemed appropriate by the agent; or

A combination of the above two (2) conditions is effected.

The term "public physical improvements" as used herein includes all improvements which are installed pursuant to a requirement by this chapter, including such improvements which are ultimately to be owned by or the responsibility for maintenance is to be incurred by a property owners' association.

(2) The subdivider shall guarantee, in accordance with the provisions of article VII of this chapter, the maintenance of any streets, sidewalks, utilities, street lights, public easements and rights-of-way shown on the development plan and final plat until such time as such facilities have been approved and accepted by the county, department of transportation, and/or any applicable agency, authority, or district to which ultimate dedication is intended. Maintenance shall be deemed to include maintenance of the streets, curb, gutter, sidewalks, drainage facilities, utilities, street lighting, landscaping, easements, rights-of-way, or other improvements, including the correction of defects and damages and the removal of snow, ice, water, debris or obstruction, so as to keep such facilities open and in good repair such that the full function of their intended public purpose is preserved.

(3) The subdivider shall indemnify, protect, and save harmless the county, its officers, agents and employees, from all losses and physical damages to property, and bodily injury or death

to any person or persons which may arise from or be caused by the construction, maintenance, presence, or use of the streets, rights-of-way, utilities and public easements required by and shown on the development plan and final plat until such time as such streets, rights-of-way, utilities and public easements shall be accepted by the county, department of transportation, and/or any applicable agency, authority, or district to which ultimate dedication is intended.

(4) Upon satisfactory completion of the installation of the required improvements, the subdivider shall make application for acceptance of such improvements for operation and maintenance by the county, department of transportation, and/or any applicable agency, authority, or district to which ultimate dedication is intended.

(d) *Approval by agent.* Where the agent, after review of the record plat, finds said plat(s) in complete conformance with the approved final plat and that the provisions of subsection (c) above have been met, the agent shall, within ten (10) working days, sign each of the reproducible copies in permanent black ink and shall, together with any necessary deeds, cause such plat(s) to be recorded by the clerk of the circuit court. After ensuring that all necessary reference information is properly written on each copy of the plat(s), the agent shall return one (1) reproducible copy to the subdivider.

Sec. 20.5-31.1. Terms of Validity.

(a) Notwithstanding the provisions of Sections 20.5-28(d) and 29(d), if at the end of three (3) years from the date of approval of a preliminary plan, or from the date of approval of a development plan if no preliminary plan is required, a subdivider has not submitted a final subdivision plat, or has not diligently pursued approval of a submitted final plat, then the agent may, upon ninety (90) days written notice by certified mail to the subdivider, revoke the preliminary plan or development plan approval. Diligent pursuit of approval of the final subdivision plat shall mean that the subdivider has incurred extensive obligations and substantial expenses relating to the submitted final subdivision plat or modifications thereto. The agent's written notice shall cite the specific facts upon which the revocation is based. In any event, when a final subdivision plat has been timely submitted but not approved the maximum term of validity for the associated preliminary plan shall be five years, except as may be provided below.

(b) Once an approved final subdivision plat for all or a portion of the property of a multiple phase development is recorded pursuant to Code of Virginia § 15.2-2261, the underlying preliminary plat, or the development plan if no preliminary plan is required, shall remain valid for a period of five (5) years from the date of the latest recorded plat of subdivision for the property.

(c) An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in Code of Virginia §§ 15.2-2270 through 15.2-2278.

(d) Following the expiration or revocation of any preliminary plat or development plan pursuant to (a) above, any subdivision plan considered for the subject property shall be submitted and processed in accordance with all applicable procedures for new submissions.

(Ord. No. 02-17, 9/17/02; Ord. No. 09-17(R), 3/17/09; Ord. No. 14-24, 11/18/14)

Sec. 20.5-32. Vacation of plats.

Any recorded plat, or part thereof, may be vacated pursuant to the provisions of sections 15.2-2270 to 15.2-2278, Code of Virginia, both sections inclusive, as applicable.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-33. Changes, erasures, and revisions.

No change, erasure or revision shall be made on a preliminary plan, development plan, or final plat, nor any accompanying data sheet, after the agent has approved in writing the plan, plat or sheets, unless prior authorization for such change, erasure or revision has been granted in writing by the agent.

Sec. 20.5-34. Special provisions for family subdivisions.

A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, eighteen years (18) of age or older, or an emancipated minor under section 16.1-331 et seq., Code of Virginia, or parent of the owner, or the spouse or siblings of an owner having no natural or legally defined offspring. Such subdivision shall be subject to the following provisions:

(a) Only one (1) such division shall be allowed per family member, as defined above, and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three (3) years following the recordation of the subdivision plat unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy. The subdivider shall place a restrictive covenant on the subdivided property that would prohibit the further voluntary transfer of the property for a period of three (3) years, with such covenant to be approved as to form and content by the county attorney and to be recorded simultaneously with the subdivision plat.

(b) In addition, in the case of property held in trust, the family subdivision opportunity may be used to effect a single division of a lot or parcel for the purpose of sale or gift to beneficiaries of the trust. All trust beneficiaries must

1. be immediate family members, as defined above, of the originators of the trust;

2. agree in writing that the property should be subdivided;

3. agree to place a restrictive covenant on the subdivided property that would prohibit the further voluntary transfer of the property for a period of three (3) years, with such covenant to be approved as to form and content by the county attorney and to be recorded simultaneously with the subdivision plat.

(c) The minimum width, yard, and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the applicable provisions of the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 20.5-66.

(d) The provisions of this section shall apply only to those properties having a single-family residential zoning district classification.

(e) For property not served with public water and public sewer, each lot shall have a primary and reserve septic system and a water source approved by the health department with evidence of such approval shown on the subdivision plat. If public water and public sewer facilities are available, as defined in this chapter, to the property proposed to be subdivided then all proposed lots shall be served by such facilities in accordance with applicable provisions of the Code.

(f) Each lot or parcel of property shall front a public road or shall front upon a private driveway or road which is in a permanent easement of right-of-way not less than twenty feet (20') in width. Such right-of-way shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches (3") and a minimum width of ten feet (10'). The right-of-way shall be maintained by the adjacent property owners in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall also be included in the deeds by which the subdivision is effected. Passable condition refers not only to the surface, but also to horizontal and vertical clearance. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2,500) square feet.

(g) Drainage and utility easements shall be dedicated to the county when deemed necessary by the agent to accommodate drainage and/or sanitary sewer facilities, whether for current or future needs, in accordance with applicable provisions of the county code.

(h) For property which fronts on an existing street or streets whose rights-of-way are, in accordance with section 20.5-70(c), deficient in width, one-half (½) of the right-of-way width deficiency shall be dedicated by the subdivider at the time of plat recordation.

(i) The corners of all lots created shall be marked with survey monuments as provided for in section

20.5-78.

(j) No parcel created by family subdivision shall be further subdivided unless such division is in full compliance with all requirements of this chapter.

(k) A final plat shall be submitted to the agent for approval as provided in section 20.5-30 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fees set forth in section 20.5-13. All physical improvements, including, but not limited to, public water, public sewer, and all-weather access drives shall be incorporated into a subdivision agreement and appropriately guaranteed in accordance with article VII of this chapter.

(Ord. No. 05-33, 12/20/05; Ord. No. 08-1, 1/15/08; Ord. No. 11-13(R), 11/16/11)

Sec. 20.5-35. Geographic control.

All plans and plats prepared pursuant to this chapter, except sketch plans prepared for preapplication conferences, shall be tied to the county geodetic control network for both horizontal and vertical control.

Secs. 20.5-36—20.5-45. Reserved.

ARTICLE III. PRELIMINARY PLAN

Sec. 20.5-46. Purpose.

The purpose of the preliminary plan is to display graphically the data necessary to review the entire development, as planned and proposed, and to coordinate its development with adjacent existing or potential development. Preliminary plans shall be reviewed to determine that the proposed development conforms with all applicable ordinances, regulations and policies of the county and other review agencies and to assist the subdivider with respect to the overall plan of development. The intent of the preliminary plan is not to develop fully-engineered construction drawings, but to provide a generalized layout and design of sufficient detail to determine that all applicable standards can be met and that the subdivision will be integrated into the overall pattern of development within the surrounding community.

Sec. 20.5-47. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, 1 rolled) of the preliminary plan on twenty-four inch by thirty-six inch (24" x 36") blue-line or black-line prints at a scale of one hundred feet (100') to the inch, except in cases where the agent has approved an alternate scale to facilitate showing the entire development on a single sheet. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled.

The following information shall be shown on or appended to the preliminary plan:

(a) The name of the subdivision, owner, subdivider, surveyor, date of drawing, number of sheets and graphic (bar) scale. Unless otherwise excepted by the agent, the side line of each sheet shall be a north-pointing (from bottom to top) grid line. If true north is used, the method of determination shall be shown.

(b) The location of the proposed subdivision on an inset map at a scale of not less than two thousand feet (2,000') to the inch showing adjoining roads, their names and numbers, towns, subdivisions, watercourses, and other landmarks. Such inset map shall be oriented north.

(c) The boundary of the property.

(d) A table of land use and statistical data, including:

(1) The total acreage of the property or properties to the nearest acre;

(2) The acreage of the area to be subdivided to the nearest acre;

(3) The zoning district classification;

(4) A summary of the zoning district requirements including minimum lot size, yard and setback requirements, open space, and any other pertinent requirements;

(5) The acreage and percentage of the total area which is classified as undevelopable area as defined in section 24.1-203 of the zoning ordinance;

(6) The acreage and percentage of the total area anticipated to be included within common areas;

(7) The acreage and percentage of the total area anticipated to be maintained as landscaped open space;

(8) The acreage and percentage of the total area anticipated to be contained within road rights-of-way;

(9) The acreage and percentage of the total area anticipated to be impervious surface area for the entire subdivision and also the area of anticipated impervious cover for each lot;

(10) The acreage and percentage of the total area anticipated to be included in the resource protection area and resource management area; the acreage of buildable area outside of the RPA on each lot as required by section 23.2-7(c) of this code.

(11) The number of lots;

(12) The maximum, minimum, and average lot areas.

(e) The approximate location of any primary geodetic control network monument within the boundaries of the tract or adjacent thereto.

(f) The names of owners, locations of existing property lines, zoning classifications, and parcel identification numbers of all parcels within the boundaries of the tract and for all properties adjacent thereto.

(g) All existing and platted streets and public rights-of-way, their names, numbers and widths (both pavement and right-of-way). The preliminary plan shall also show the location (either graphically or by description) of all existing and planned driveways or other entrances onto public streets within five hundred feet (500') of the proposed subdivision.

(h) The general layout and design of the street circulation system shall be shown including proposed widths, names, functional classifications, and such other information as may be required by the Virginia Department of Transportation for conceptual sketch review pursuant to the Virginia Secondary Street Acceptance Requirements (24VAC30-92-70).

(i) The general location and extent of all existing and proposed utilities and easements, including landscape, preservation or conservation easements, public areas, and parking spaces. All existing and planned fire hydrants located within six hundred feet (600') of the property shall also be shown or described.

(j) All proposed lots, approximate lot areas, blocks, phases, and building setback lines.

(k) Existing site topography at a contour interval of no more than five feet (5') based on mean sea level including existing site development.

(l) A master drainage plan showing the proposed major drainage system, including significant existing and proposed structures and major stormwater management facilities proposed to convey the subdivision drainage to an adequate channel, pipe or stormwater system. The preliminary plan shall be required to include only approximate sizing of major pipes and ditches, general location and extent of all existing and proposed drainage utility easements, and the location and approximate dimensions of significant existing or proposed stormwater management facilities.

(m) The approximate location of any floodplain area as depicted on the flood insurance rate map (FIRM) for York County, Virginia including the flood hazard zone designation(s) and elevation(s).

(n) The approximate location and identification by size and common name of all heritage, memorial, and/or specimen trees located within proposed rights-of-way or utility easements.

(o) The approximate location and extent of any known or suspected archaeological sites, historic sites, cemeteries, individual grave sites, and other similar cultural resources and including, as an attachment, a narrative description of the resource and its potential significance.

(p) Identification of any portion or portions of the property which are located in the Watershed Management and Protection Area, Chesapeake Bay Preservation Area or a sensitive natural area, as defined in section 24.1-260(d) of the zoning ordinance.

(q) All parcels of land to be dedicated for public use and the conditions, if any, of such dedication.
(Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09)

Sec. 20.5-48. Contents.

In addition to the information required to be shown on the preliminary plan, the following materials shall be submitted to the agent at the time of application to supplement the plan sheets:

(a) Three (3) copies of impact analyses as may be required by article VIII of this chapter.

(b) Three (3) copies of a Natural Resources Inventory as described in Chapter 23.2 including preliminary wetlands delineations.

(c) A disclosure statement containing the following information:

(1) A statement as to the title to all of the land comprising the subdivision or development, including all deed restrictions and covenants which are, or are proposed to be, applicable thereto.

(2) A statement as to the presence of any known environmental or health hazards on or within the property and the condition of such hazards, including responsibility and potential effect on human health and the natural environment.

(d) Where phases are proposed, a development schedule shall be submitted which shall clearly delineate the proposed phases and include a proposed schedule for the provision of improvements and facilities in conjunction with the proposed phases.
(Ord. No. 05-33, 12/20/05)

Sec. 20.5-49. Sheet layout.

The format of plan sheets submitted shall be in conformance with Figure III-A.

Sec. 20.5-50. Reserved.

ARTICLE IV. DEVELOPMENT PLAN

Sec. 20.5-51. Purpose.

The purpose of the development plan is to provide details and specifications relative to a subdivision, or phase thereof, which will ensure full compliance with all applicable ordinances, regulations, requirements, and policies of the county and other review agencies. The development plan is intended to be a fully- engineered construction blueprint which addresses all development issues and details and from which a determination can be made relative to the adequacy of the design elements and facilities proposed. In this regard, the agent shall generally not accept development plans containing less than a complete subdivision or phase thereof.

Sec. 20.5-52. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, 1 rolled) of the development plan on twenty-four inch by thirty-six inch (24" x 36") blue-line or black-line prints at a horizontal scale no smaller than five feet (5') to the inch and a vertical scale of five feet (5') to the inch except in cases where the agent has approved an alternate scale. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled.

The following information for the subdivision or part thereof shall be shown on the development plan or within the attachments to the development plan:

(a) The name of the subdivision, owner, subdivider, surveyor and engineer, and the date of drawing, number of sheets, graphic (bar) scale and phase designation. Unless otherwise excepted by the agent, the side line of each sheet shall be a north-pointing (from bottom to top) grid line and labeled as such. If true north is used, the method of determination shall be shown.

(b) The location of the proposed subdivision, or part thereof, on an inset map at a scale of not less than two thousand feet (2,000') to the inch showing adjoining roads, their names and numbers, towns, subdivisions, watercourses, and other landmarks. Said inset map shall be oriented north.

(c) A boundary survey providing a closure within an accuracy of not less than one (1) in ten thousand (10,000).

(d) Land use data, including:

(1) The total acreage of the property or properties to the nearest one-tenth (.10) acre;

(2) The acreage of the area to be subdivided to the nearest one-tenth (.10) acre;

(3) The acreage and percentage of the total area of undevelopable areas as defined by section 24.1-203 of the zoning ordinance;

(4) The zoning district classification;

(5) A summary of zoning district requirements including minimum lot size, yard and setback provisions, and any other pertinent regulations such as the cluster requirements, if that technique is being utilized;

(6) The acreage and percentage of the total area included within common areas;

(7) The acreage and percentage of the total area within landscaped open space areas;

(8) The acreage and percentage of the total area within road rights-of-way;

(9) The acreage and percentage of the total area of impervious surface area within the proposed subdivision and including the maximum allowable impervious cover for each lot that has been used in the stormwater management system design;

(10) The acreage and percentage of the total area within resource protection areas and resource management areas respectively; including the acreage of buildable area outside of the RPA on each lot as required by section 23.2 -7(c) of this code.

(11) The number of lots or units;

(12) The density, both net and gross;

(13) The maximum, minimum, and average lot sizes.

(e) The location of any primary geodetic control network monument within the boundaries of the tract or within two (2) kilometers of the property with reference, identification and the X-Y coordinate value in U.S. survey feet or meters.

(f) The names of owners, location of existing property lines, parcel identification numbers, and zoning classification within the boundaries of the tract and for all properties adjacent thereto.

(g) All existing, platted and proposed streets and public rights-of-way and their names, numbers and widths (both pavement and right-of-way). The data of all curves along street frontages shall be shown at the curve or in a curve data table and shall contain the following:

(1) delta

(2) radius

(3) arc

(4) tangent

(5) chord

(6) chord bearings

Plan, profile, and cross-section views of all proposed street rights-of-way shall be shown including street line, centerlines, type and depth of base and pavement, compaction, drainage facilities, shoulders, sidewalks, monuments, utility placements, and other features of the proposed streets.

(h) All existing and proposed utility and other easements, including landscape, preservation or conservation easements, public areas, and parking spaces.

(i) All utility placements shall be shown with plan and profile views and shall include:

(1) Size, location, and method of proposed connections to existing utilities.

(2) Size and location of proposed facilities showing proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and clean-outs, grinder pumps, and manhole rim and invert elevations and percent of slope.

(3) Location, design, and details of sewage pump stations.

(4) Location, design, and details of water well facilities which are to be part of a central water system with health department and State Water Control Board (if applicable) approvals attached.

(5) Location of water wells on individual lots which are not to be a part of a central water system for either potable or non-potable purposes with health department and State Water Control Board (if applicable) approvals attached.

(6) Location and design of septic systems, both primary and reserve, including soils information, horizontal and vertical separations between drainlines, average water table, and finished ground surface. Health department approvals shall be attached.

(j) All proposed lots, lot areas, building setback, and yard lines. All lots shall be located and dimensioned by bearings and distances or X-Y coordinate values in U.S. survey feet or meters.

(k) Existing and proposed site topography at a contour interval of no more than two feet (2') based on mean sea level with spot elevations provided at and along all proposed grade changes. At a minimum, the existing and proposed elevation at each corner of each lot along with the existing and proposed high or low point between lot corners shall be provided. Areas having slopes in excess of thirty percent (30%) shall be delineated on the plan.

(l) A drainage plan showing the proposed drainage system including all existing and proposed culverts, drains, open ditches, storm drain pipes, watercourses, lakes and other stormwater management facilities proposed to convey the subdivision drainage to an adequate channel, pipe or stormwater system. Stormwater management criteria consistent with the provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time shall be satisfied. The development plan shall include detailed information about the sizing of all pipes and ditches, types of pipes, ditch linings, location and extent of drainage easements, and the location and extent of all existing or proposed stormwater management facilities, their depths, slopes, invert elevations, lining, and other pertinent data. Drainage calculations shall be submitted with drainage area maps showing the pre and post development conditions and the route of the travel used to determine the time of concentration to verify the design of the drainage system including the downstream

adequacy of the channel, pipe or stormwater system receiving run-off from the subdivision. Positive drainage off of each lot must be demonstrated and the direction of drainage flows shall be shown on the plan.

(m) An erosion control plan showing the location, type, and details of proposed erosion and sediment control devices to be used during and after construction. The erosion control plan shall meet or exceed all requirements of chapter 10 of this Code (Erosion and Sediment Control Ordinance) and shall be provided as a separate plan sheet.

(n) The location of any floodplain area as depicted on the flood insurance rate map (FIRM) for the county as published by the Federal Emergency Management Agency including the flood hazard zone designation(s) and elevation(s) and any other information required by the floodplain management area provisions of the zoning ordinance for floodplain areas. Where none of the area contained in the subdivision lies within a floodplain area, a note to this effect shall be shown on the face of the development plan.

(o) The location of all proposed secondary ground control network monuments.

(p) The location and identification by size and common name of all single heritage, memorial or specimen trees and/or groups thereof.

(q) The location and design, including color renderings, of any proposed signage or entrance monuments or structures including walls, fences, or similar features.

(r) The location, size, design and type of all streetlights proposed to be installed.

(s) A landscape plan prepared in accordance with the standards for such plans contained in chapter 24.1, Zoning, of this Code, for all common areas, entrance ways, and other areas where replacement or additional landscaping is required or proposed.

(t) Identification of any portion or portions of the subdivision or phase thereof which is or may be located in a Watershed Management and Protection Area or Chesapeake Bay Preservation Area. Such identification shall be accompanied by a Natural Resources Inventory as defined in Chapter 23.2 and shall also include information concerning any natural areas identified pursuant to the requirements of section 24.1-260(d) of the zoning ordinance.

(u) The location and extent of any known or suspected archaeological sites, historic sites, cemeteries, individual grave sites, and other similar cultural resources and including, as an attachment, a narrative description of the resource and its potential significance.

(v) All parcels of land to be dedicated for public use or for the common use of the property owners and the conditions, if any, of such dedication.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-53. Contents.

In addition to the information required to be shown on the development plan, the following materials shall be submitted to the agent to supplement the plan sheets:

(a) A copy of the documents for any property owners association which is proposed to be created or expanded and which would apply to the lots created by the subdivision. Such documents shall be prepared in accordance with section 55-508 et seq., Code of Virginia.

(b) A copy of any other documentation which establishes responsibility for maintenance or perpetuation of any feature or element within the subdivision including, but not limited to, streets, sidewalks, streetlights, landscaping, drainage facilities, or common elements.

(c) A disclosure statement as required by section 20.5-48(b) of this chapter, except that if no change has occurred since its previous submission, a new statement shall not be required.

(d) A statement, certified by a duly licensed attorney, defining and describing who has title to each tract of land contained within the subdivision and specifically describing any title defects or encumbrances affecting, or potentially affecting, any portion of the property proposed to be dedicated to public use.

(e) A table of statistical data for the subdivision or phase thereof detailing for each lot the following information:

(1) Total area;

(2) Undevelopable area, as defined in section 24.1-203 of the zoning ordinance, platted as part of the lot;

(3) Net developable area;

(4) Buildable lot area (excluding required yards, buffers and setbacks).

The table shall also include a column for assigning parcel identification numbers to each lot. This information will be assigned during the review process and returned to the subdivider for incorporation into the final plat.

(f) Evidence that all required environmental permits from the U. S. Army Corps of Engineers, Virginia Department of Environmental Quality, Virginia Marine Resources Commission and/or the York County Wetlands/Chesapeake Bay Board have been obtained or are unnecessary shall be submitted where the Natural Resources Inventory indicates that wetlands, State waters, waters of the US and/or Chesapeake Bay Preservation Area disturbances will occur as a result of the proposed subdivision.

(g) The materials identified and required in section 20.5-48 shall also be provided in the event a preliminary plan was not required or submitted.

(Ord. No. 05-33, 12/20/05; Ord. No. 14-24, 11/18/14)

Sec. 20.5-54. Sheet layout.

The format of plan sheets submitted shall be in conformance with Figure IV-A.

Sec. 20.5-55. Reserved.

ARTICLE V. FINAL PLAT

Sec. 20.5-56. Purpose.

The purpose of the final plat is to provide a detailed map of the subdivision which shall establish that clear title exists and, upon recordation, shall provide sufficient and adequate information to transfer title to all property dedicated to public use and allow for the eventual transfer of title of the individual lots created by the subdivision.

Sec. 20.5-57. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, 1 rolled) of the final plat on blue-line or black-line prints at a scale of one hundred feet (100') to the inch except in cases where the agent has approved an alternate scale. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled. The size of any final plat shall be eighteen inches by twenty-four inches (18" x 24").

The following information for the subdivision or part thereof shall be shown on the face of the final plat:

(a) The name of the subdivision, owner, subdivider, land surveyor, and the date of drawing, number of sheets, graphic (bar) scale and, if applicable, the phase designation. Unless otherwise excepted by the agent, the side line of each sheet shall be a north-pointing (from bottom to top) grid line and labeled as such. If true north is used, the method of determination shall be shown.

(b) The location of the proposed subdivision or part thereof on an inset map at a scale of not less than two thousand feet (2,000') to the inch, showing adjoining roads, their names and state route num-

bers, towns, subdivisions, watercourses, and other landmarks. Said inset map shall be oriented north.

(c) A boundary survey providing a closure within an accuracy of not less than one (1) in twenty thousand (20,000) or which meets or exceeds Second Order, Class II standards, as determined by the Federal Geodetic Control Committee and contained in the current edition of the publication entitled, *Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey*.

(d) The location of any primary geodetic control network monument within the boundaries of the tract or within two (2) kilometers of the property with reference, identification and the X-Y coordinate value in U.S. survey feet or meters. Show and label the location(s) of the Primary Geodetic Control Monument(s) on the inset (vicinity) map.

(e) All existing, platted and proposed streets and public rights-of-way, their names, numbers and widths (both pavement and right-of-way). The data of all curves along street frontages shall be shown at the curve or in a curve data table and shall contain the following:

(1) delta

(2) radius

(3) arc

(4) tangent

(5) chord

(6) chord bearings

Temporary cul-de-sacs shall be shown and appropriately labeled to show both the permanent and the temporary portions of the right-of-way included.

(f) All utility, public service corporation, and other easements, including landscape, preservation or conservation easements, public areas, and parking spaces. Easements shall be located and dimensioned by bearings and distances with curve data or X-Y coordinate values in U.S. survey feet or meters.

(g) All proposed lots, lot areas, and building setback lines. All lots shall be located and dimensioned by bearings and distances with curve data or X-Y coordinate values in U.S. survey feet or meters.

(h) The location of all approved private sewage disposal systems, including both primary and reserve locations, and a notation on any plat of property located in whole or in part within a Chesapeake Bay Preservation Area (CBPA) indicating that any on-site sewage treatment system on such property must be pumped out at least once every five (5) years.

(i) The location of major stormwater management ponds or lakes.

(j) The location of any floodplain area as depicted on the flood insurance rate map (FIRM) for the county as published by the Federal Emergency Management Agency including the flood hazard zone designation(s) and elevation(s) and any other information required by the floodplain management area provisions of the zoning ordinance for floodplain areas.

(k) The location of any resource protection area, resource management area or watershed management area including delineation of all required buffers and setbacks and including a notation indicating that required buffers, and specifically the 100-foot RPA Buffer, are to remain undisturbed and vegetated, except for such modifications as may be authorized by Section 23.2-9(d), York County Code, for reasonable sight-lines, access paths, shoreline erosion control best management practices, removal of dead or diseased trees or shrubbery, and other listed modifications. In the event the property is within any area designated as a RPA – Resource Protection Area, the plat shall also contain a notation indicating that development in the RPA is limited to water dependent facilities or redevelopment or is otherwise allowed pursuant to the terms of Section Nos. 23.2-9(f), 23.2-10 or 23.2-11, York County Code, or is otherwise approved as a waiver under applicable code provisions.

(l) The location of all proposed secondary ground control network monuments.

(m) All parcels of land to be dedicated for public use or for the common use of the property owners.

(n) The parcel identification number assigned to each lot, either within the boundaries of the lot itself or in tabular form.

(o) The certificate of consent and dedication duly signed and notarized by all owners, including trustees, if any, in the format required by section 15.2-2264, Code of Virginia.

(p) The certificate duly signed by a land surveyor setting forth the source of title in accordance with section 15.2-2262, Code of Virginia, and certifying that the monuments and survey markers shown on the plat have been correctly located and installed.

(q) An approval block for the signature of the agent on behalf of the county.

(Ord. No. 05-33, 12/20/05; Ord. No. 11-13(R), 11/16/11)

Sec. 20.5-58. Contents.

In addition to the information required to be shown on the face of the final plat, the following materials shall be submitted to the agent provided, however, that any document previously submitted, and which has not substantially changed, shall not be required to be resubmitted unless expressly requested by the agent in writing:

(a) A copy of the documents for any property owners association proposed to be created or expanded and which would apply to the lots created by the subdivision. Such documents shall be prepared in accordance with the relevant provisions of the Code of Virginia.

(b) A copy of any other documentation which establishes responsibility for maintenance or perpetuation of any feature or element within the subdivision including, but not limited to, streets, sidewalks, streetlights, landscaping, drainage facilities, or common elements.

(c) A disclosure statement as required by section 20.5-48(b) of this chapter, except that if no change has occurred since its previous submission, a new statement shall not be required.

(d) A statement, certified by a duly licensed attorney, defining and describing who has title to each tract of land contained within the subdivision and specifically describing any title defects or encumbrances affecting, or potentially affecting, any portion of the property proposed to be dedicated to public use.

(e) Unless previously submitted, evidence as required by section 20.5-53(f) that environmental permits have been obtained or are unnecessary.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-59. Sheet layout.

The format of plan sheets submitted shall be in conformance with Figure V-A.

Sec. 20.5-60. Preparation standards for record plats.

Plats submitted to the agent for final approval and recordation shall be clearly and legibly drawn in dark black ink upon .004 mil or thicker polyester based drafting film with a matte finish on both sides and having a sheet size of eighteen inches by twenty-four inches (18"x24"). In accordance with the Standards for Recorded Instruments of the Virginia State Library Board, the following preparation standards shall apply:

(a) All drawing, lettering, and inscription shall be in permanent black ink and shall be solid, dense, uniform, sharp, unglazed, and on one side of the sheet only.

(b) All signatures shall be in black or dark blue permanent ink.

(c) Lettering and line weight shall be no less than .013 inches or .3302mm.

(d) Lettering shall be no less than one-tenth inch or 2.54mm in height.

(e) Letter and line spacing shall be no less than .040 inches or 1.016mm.

(f) All plats shall have centering marks on each side.

(g) Margins shall be at least one-fourth inch on all sides.

(h) All shading or screening shall be eliminated over written data.

(i) Good drafting practice shall be followed when eliminating ghost lines and when doing erasures.

Sec. 20.5-61. Submission requirements for record plats.

The subdivider shall submit three (3) reproducible copies of the approved final plat, prepared in accordance with the requirements established in section 20.5-60 of this chapter, to the agent for signature and recordation. All plats submitted to the agent shall be complete including the following:

(a) All required signatures and notarizations, except that of the agent, shall have been affixed to each copy.

(b) Copies of all deeds, covenants, agreements, easements, performance guarantees or other certificates or instruments which have been required by the agent or are intended for recordation in conjunction with the plat, complete with all required seals, shall be submitted. Plats of easements for off-site easements shall be of a format in conformance with Figure V-B.

(c) Recordation fees in an amount sufficient to cover the recordation costs of the plat and other instruments shall be submitted.

Sec. 20.5-62. Minor changes subsequent to recordation.

If, subsequent to recordation, errors are discovered in the information contained in the record plat, the agent shall require the subdivider to prepare and submit, together with the requisite recordation fees, a corrected record plat containing all required signatures, notarizations and seals. Such corrected record plat shall, subsequent to review and approval by the agent be recorded, and the previously recorded plat shall have a notation written on its face indicating that it has been superseded with reference to the corrected record plat. There shall be no review fee for this process.

Secs 20.5-63—20.5-65. Reserved.

ARTICLE VI. DESIGN STANDARDS

DIVISION 1. GENERAL LAYOUT AND DESIGN

Sec. 20.5-66. Suitable land.

The agent shall not approve the subdivision of land if it is determined by the agent that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, inadequate water or sanitation, the existence of utilities and easements or other features deemed not to be in the best interests of the public safety, health and general welfare.

Each lot shall be suitable for a building site. Where public utilities are unavailable, each lot, other than recreation or public service lots, shall pass a percolation test for the installation of a septic system with both a primary and a one hundred percent (100%) reserve drainfield and have a suitable location for a potable water well. Land not suitable within a proposed subdivision shall be platted only for uses not endangered by periodic or occasional inundation and only where it will not produce conditions contrary to the public welfare. Otherwise, such non-suitable land shall be combined with other lots.

Sec. 20.5-67. Improvements by developer.

All required subdivision improvements shall be installed by the subdivider at his cost. In cases where, in accordance with other provisions of the Code, the specifications for water and sewer utilities improvements are established partly to provide for the eventual connection of other adjacent or abutting properties in a coordinated manner, the subdivider may be eligible for certain credits or cost-share programs which must be entered into by formal agreement, acceptable as to content and form by the county attorney, prior to final plat approval or earlier, if so required by other provisions of this code.

Where specifications for certain improvements have been established by a governmental agency for streets, curbs, water, sewage, drainage or other public improvement, such specifications shall be followed unless this chapter or other provisions of the Code prescribe a more stringent standard.

Sec. 20.5-68. Easements.

Easements required to be dedicated by the subdivider to the county by this chapter shall be of sufficient width for the specified use(s). Such easements shall include the right of ingress or egress and shall generally run with lot lines.

Sec. 20.5-69. Underground utilities.

a) All utilities including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electric, telephone, gas, cable television or similar services shall be placed underground except, however, the following shall be permitted above ground:

(1) Electric transmission lines and facilities in excess of fifty (50) kilovolts.

(2) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, streetlighting poles or standards, radio antennae, traffic control devices, and associated equipment which is, in conformance with accepted utility practices, normally installed above ground.

(3) Meters, service connections and similar equipment normally attached to the outside wall of a customer's premises.

(4) Temporary above ground facilities required in conjunction with an authorized construction project.

(b) Existing utilities located above ground in proposed subdivisions may be maintained or repaired provided that such repair does not require relocation.

(c) Whenever any existing on-site above ground utilities require relocation for any reason, they shall be removed and placed underground. In the event the development impacts existing off-site above ground utilities and necessitates their relocation onto the development site, such utilities shall be placed underground at the developer’s cost, and the developer shall secure all necessary permits, easements, and approvals for such work.

(d) All utilities shall be placed within easements or public street rights-of-way in accordance with "Typical Curb and Gutter Details CGD-1, CGD-2, CGD-3, or CGD-4" (see Appendix A) as published by the department of environmental and development services or as may be otherwise approved by the agent.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-70. Lots.

Standards for lots are as follows:

(a) *Size.* The minimum lot size and dimensions shall be in accordance with the zoning ordinance requirements for the zoning district in which the proposed subdivision is located. This does not apply

to open space developments (cluster techniques) in accordance with section 24.1-402 of the zoning ordinance. All newly created lots located within Chesapeake Bay Preservation Areas, whether in a conventional or open space development, shall be of sufficient size to meet the special lot size requirements applicable in Chesapeake Bay Preservation Areas (reference section 23.2-7 of this code).

(b) *Arrangement, design and shape*. The lot arrangement, design and shape shall relate to the natural topography and features of the land so that each lot has an acceptable building site with direct access from an improved street and adequate buildable area outside any Resource Protection Area (RPA) buffers. Unusually shaped or elongated lots established primarily for the purpose of meeting minimum lot size requirements, when such area would be unusable for the usual purposes to which such area would normally be placed, shall not be permitted by the agent.

(c) *Location.* Each lot shall abut and have access to either a proposed public street right-of-way to be dedicated by the subdivision plat or an existing public street, unless otherwise specifically provided for in section 20.5-102 or article IX of this chapter. If the existing streets to which lots abut do not meet the minimum width requirements established by the department of transportation for street of that functional classification (traffic volume), the subdivider shall dedicate the necessary right-of-way and construct the necessary pavement for such purpose in accordance with the standards established by section 20.5-93 of this chapter.

(d) *Sidelines.* Side lot lines shall be approximately perpendicular to or radial to the street right-of-way line. This does not apply to open space developments (cluster techniques) in accordance with section 24.1-402 of the zoning ordinance.

(e) *Access to arterial streets.* Lots within major subdivisions shall not front on or have direct access to arterial streets as defined in this chapter. Lots in minor and other subdivisions shall, to the degree possible and practical as determined by the agent, not front on arterial roads. In no case shall direct access at a ratio greater than one (1) access point per two (2) non-residential lots be permitted.

(f) *Through lots.* Except as may be otherwise provided in section 20.5-126(c) of this chapter, through lots shall contain a restricted access easement ten (10) feet in width along the frontage of the street right-of-way having the greater estimated average daily traffic (ADT) volume across which easement there shall be no right of vehicular access to or from the right-of-way. This easement area shall be used for the cultivation of buffer plantings.

(g) *Remnants.* All remnants of lots not meeting minimum lot size requirements remaining after the subdividing of a tract shall be added to adjacent lots or dedicated to a duly constituted property owners' association for the common use of all residents of the subdivision, in which case a minimum ten foot (10') wide easement or other form of access shall be provided from a public street right-of-way or other property dedicated to the common use. The subdivider shall demonstrate, to the satisfaction of the agent, that remnants proposed for dedication to a duly constituted property owners' association shall be of some usefulness to said association; otherwise such remnants shall be added to adjacent lots.

(h) *Lots adjacent to county boundaries.* Generally lots shall follow the boundaries of the county and shall not cross such political boundary lines.

(i) *Numbering*. Lot, section, and block numbering shall be approved by the agent and shall conform with the county parcel identification numbering system.

(Ord. NO. 05-33, 12/20/05)

Sec. 20.5-71. Blocks.

Design standards for blocks are as follows:

(a) *Length.* The length of blocks shall be determined by public safety, traffic flow, and natural topography considerations. Where streets are approximately parallel, connecting streets shall be provided between the parallel streets at reasonable intervals as established by application of the criteria in the preceding sentence. In general, residential blocks should be between five hundred feet (500') and twelve hundred feet (1,200') in length.

(b) *Width.* Blocks shall be designed in two (2) tiers of lots, except where prevented by the natural topography, size of the property, or adjoining railroads or waterways, in which case the agent may approve a

single tier of lots. Where the property to be subdivided adjoins an arterial road, the agent may require a single tier of lots and a restricted access easement along the arterial road.

(c) *Orientation.* Where a proposed subdivision adjoins an arterial or collector road, the agent may require that blocks be oriented and designed to limit or reduce the number of points of access to that road.

Sec. 20.5-72. Sections/phases.

Whenever the subdivider chooses to develop a subdivision in sections or phases rather than in its entirety, each such section or phase shall be shown on the preliminary plan, or on the development plan in the event a preliminary plan was not required or submitted, and the arrangement and extent of each section or phase shall be approved by the agent. Unless otherwise excepted by the agent upon written request, subsequent plans and final plats shall coincide with the approved phasing.
(Ord. No. 14-24, 11/18/14)

Sec. 20.5-73. Water.

Requirements for the provision of water within subdivisions are as follows:

(a) *Public water.* Where public water is available in accordance with other provisions of the Code, it shall be extended to all lots within a subdivision, including recreation areas, but not to remnants unsuited for building.

(b) *Central water system.*

(1) Where lot sizes are less than two (2) acres and public water is not available, the subdivider of any major subdivision shall construct a central water system including distribution lines, storage tanks and facilities, and supply facilities within the subdivision. Upon completion of the improvements and after receiving acceptable test results, the water system together with all necessary easements and rights-of-way shall be dedicated to the county, or other entity acceptable to the county, by deed which is acceptable as to content and form to the county attorney, with an accompanying plat.

(2) The agent may waive or modify the requirement to construct and dedicate a central water system upon making the following findings:

a. The minimum size of the lots is sufficiently large as to make the installation of a central water system unnecessary;

b. The health department has approved an individual well location on each proposed lot;

c. Groundwater resources will be at least equally protected by individual wells as they would be by a central water system; and

d. Alternative sources of water, acceptable to the department of public safety, are available or will be provided for fire suppression purposes.

(c) *Individual wells*. Where subdivision lots are to be served by individual wells, the proposed locations of all individual wells shall have been approved by the health department and the subdivider shall provide to the county a general quantitative and qualitative analysis of the water to be available from the proposed well locations.

(d) *Construction standards.*

(1) All water supply systems shall be constructed in accordance with all applicable construction standards promulgated by the health department or as contained in the Code and policies adopted by the county pursuant thereto. A construction permit shall be issued by the county administrator prior to the commencement of construction.

(2) Construction, installation, and maintenance of water systems shall be exempt from the provisions of section 20.5-85 of this chapter provided that:

a. To the degree possible, the location of water system lines, facilities, and equipment should be outside of the resource protection area.

b. No more land shall be disturbed than is necessary to provide for the desired utility installation.

c. All such construction, installation and maintenance of water utilities and facilities shall be in compliance with all applicable state and federal permits and designed and conducted in a manner that protects water quality.

d. Any land disturbance resulting from the construction, installation, and maintenance of water systems which exceeds an area of two thousand five hundred (2,500) square feet shall be undertaken only after approval of an erosion and sediment control plan prepared, submitted, and reviewed in accordance with chapter 10, *Erosion and Sediment Control*, of this Code.

(e) *Fire protection*. Fire hydrants shall be installed in subdivisions at locations designated by the agent, in consultation with the department of fire and life safety, at the time of an extension of public water or construction of a central water system. Where the subdivision is to be developed with individual wells, the agent, in consultation with the department of fire and life safety, may require that alternative sources of water for fire suppression purposes be made available including construction of a fire suppression well system, provision of "dry" hydrants, and/or easements granting access to water sources. All fire hydrants located within a road right-of-way shall be placed between one foot (1') and three feet (3') from the edge of such right-of-way.

(f) *Off-site water facilities costs*. The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary water facilities and improvements located outside of the property limits of land owned or controlled by him whenever all of the following conditions exist:

(1) The county determines that such off-site improvements are necessitated at least in part by the construction or improvement of the subdivision.

(2) The county or other appropriate authority has established a general water facilities improvement program for an area having related and common water service and facilities conditions.

(3) The subdivider's property is located within said designated area covered by such program.

(4) The estimated cost of the total water facilities improvement program has been determined.

(5) The total estimated water flows have been established for the designated area served by such program.

The subdivider's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the volume of water to be used by his subdivision bears to the total estimated volume in such area in its fully developed state.

Any cash payment received by the county shall be expended only for construction of those facilities identified in the established water facilities improvement program and until so expended, shall be held in a separate account for the individual improvement program.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-74. Sewer.

Requirements and standards for sewage disposal in subdivisions are as follows:

(a) *Public sewer*. If public sewer is available in accordance with other provisions of the Code (whether or not separated from the subject property by a hard surfaced road), it shall be extended to all lots within the subdivision including recreation areas where, because of their size and configuration, construction of facilities requiring connection to sewer is anticipated, but not remnants unsuited for building.

(b) *Individual sewer*.

(1) If public sewer is not available, subdivisions with lots served by septic systems may be approved by the agent provided that the following documented proof of each of the following is submitted:

a. Both a primary location and a one hundred percent (100%) reserve location for the septic system will be provided, neither of which shall be located, in whole or in part, in the resource protection area;

b. The location and design for each septic system (both primary and reserve) has been accomplished in accordance with the most current edition of the "Sewage Handling and Disposal Regulations" of the Virginia Department of Health and all applicable provisions of this Code and has been specifically and individually approved by the health department;

c. Contamination or pollution of wells, groundwater, state waters, reservoirs, or any Chesapeake Bay resource preservation area or resource management area is unlikely to occur from any proposed individual septic system.

(2) Any such subdivision submitted for review shall include the specific locations proposed for both primary and reserve on-site septic system installations with documentation of health department approval for each proposed location. Any proposed lots not suitable for the installation of private sewage disposal systems shall either be combined with lots that are suitable or dedicated to common open space or recreation use, so that only buildable lots are created.

(c) *Construction standards.* All sewage disposal systems shall be constructed in accordance with all applicable construction standards contained in this Code and policies adopted by the county pursuant thereto. A construction permit shall be issued by the county administrator prior to the commencement of construction.

(d) *Off-Site sewer facilities costs*. Where sewer facilities and improvements located outside the limits of the project are required to be constructed, the subdivider shall be eligible for such credits or cost sharing arrangements as are stipulated in this Code.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-75. Drainage.

Standards for drainage within subdivisions are as follows:

(a) Improvements. Drainage and stormwater management facilities shall be provided, either on-site or off-site, to reduce drainage flows, pollutants, and sediment loading from the subdivision to levels in accordance with the requirements of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, or to a lesser level if deemed necessary to comply with other provisions of this Code. The agent shall approve, or approve with modifications, only those stormwater management facilities which comply with the Virginia Stormwater Management Regulations and adopted overall drainage plans and policies, if any. In this regard, the agent shall not generally approve, except as a temporary measure, on-site stormwater management facilities as an alternative to contributing (in accordance with the provisions of paragraph (b) of this section) to planned regional stormwater management systems. All management facilities shall be designed and constructed in accordance with the Erosion and Sediment Control Ordinance (chapter 10 of this Code) as supplemented by the latest editions of the Virginia Erosion and Sediment Control Handbook, Virginia Stormwater Management Handbook and the Virginia Department of Transportation Drainage Manual as well as those laws, ordinances, criteria, regulations, or policies adopted by the Commonwealth or the county.

(b) *Off-site drainage costs*. The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary drainage improvements located outside of the property limits of land owned or controlled by him whenever all of the following conditions exist:

(1) The county determines that such off-site improvements are necessitated at least in part by the construction or improvement of the subdivision.

(2) The county or other appropriate authority has established a general drainage improvement program for an area having related and common drainage conditions.

(3) The subdivider's property is located within said designated area covered by such program.

(4) The estimated cost of the total drainage improvement program has been determined.

(5) The estimated storm water runoff has been established for the designated area served by such program.

The subdivider's share of the above-estimated cost of improvements shall be limited to the amount necessary to protect water quality based upon the pollutant loading caused by the subdivision or development or the proportion of such estimated cost which the volume and velocity of storm water runoff to be caused by his subdivision bears to the total estimated volume and velocity of runoff from such area in its fully developed state. In calculating the pollutant loading caused by the subdivision or development or volume and velocity of storm water runoff, the county shall take into account the effect of all on-site storm water facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefor.

Any cash payment received by the county shall be expended only for construction of those facilities identified in the established drainage facilities improvement program and until so expended, shall be held in a separate account for the individual improvement program.

(Ord. No. 01-11, 7/17/01; Ord. No. 05-33, 12/20/05)

Sec. 20.5-76. Pedestrian and bicycle facilities.

Standards for pedestrian and bicycle facilities in subdivisions are as follows:

(a) Pedestrian, bicycle, and shared use path facilities shall be provided as required by the Virginia Secondary Street Acceptance Requirements (24VAC30-92).

(b) Where sidewalks have been installed or guaranteed for installation by some form of performance guarantee along an existing street, any extension of said existing street into a proposed subdivision shall also extend the sidewalks.

(c) Unless otherwise excepted by the agent, sidewalks shall be separated from the rear of the curb in accordance with the following standards based on the street classifications in section 20.5-91:

Street Classification	Minimum Separation (feet)
Access	6
Subcollector	6
Minor Collector	6
Major Collector	6
Minor Arterial	8
Major Arterial	10

The area of separation between the curb and sidewalk shall be planted with appropriate street trees at a minimum ratio of one (1) tree per each forty (40) linear feet of sidewalk.

(d) Where the proposed subdivision is adjacent to public use property including parks, schools, libraries, public recreation facilities and similar areas, the subdivision shall be connected to said public use property by means of a dual-purpose pedestrian and bicycle trail which shall be designed and constructed in accordance with the applicable provisions of the standards for recreational facilities adopted by the county or other acceptable standard or facility design approved by the agent.

(e) Sidewalks shall be designed and located, with the intent of providing security, tranquility and privacy for occupants of adjoining property and safety for users of the walkways.

(Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09)

Sec. 20.5-77. Streetlights.

Standards for streetlights in subdivisions are as follows:

(a) At a minimum, streetlights shall be provided by the subdivider at roadway intersections and at such other locations as may be designated by the agent in consultation with the department of transportation and in accordance with the York County Streetlight Installation Policy as established by the board of supervisors. Unless otherwise approved by the agent, streetlights shall conform with the following standards:

(1) All fixtures and mounting devices shall be architecturally compatible with the subdivision. In this regard, "cobra-head" or other fixtures with a horizontal extension between the mounting pole and the luminaire of more than eighteen inches (18") shall not be approved in residential subdivisions.

(2) On access, subcollector, and minor collector streets, mounting poles shall be installed in accordance with the clear zone requirements specified in the Virginia Department of Transportation Subdivision Street Design Manual.

(3) The lighting plan shall be designed to illuminate roads, intersections and pedestrian facilities constructed within and along the boundaries of the subdivision.

(4) Luminaires shall be installed so as to reduce or prevent direct glare into residential units.

(b) The subdivider shall deposit the applicable installation/operations fee for the streetlight(s) with the agent once the costs have been determined by Dominion Virginia Power. Sufficient performance surety shall be maintained by the subdivider for any required streetlights until the installation/operations fee has been paid.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-78. Survey monuments.

Standards for survey monuments within subdivisions are as follows:

(a) *Concrete monuments.* Concrete survey monuments four inches (4") in diameter or square, three feet (3') long and having a flat top shall be located in all street corners, points of curve in streets, right-angle points and points where the street line intersects the exterior boundaries of the subdivision. The top of all concrete monuments shall have a metal cross, plug or disk permanently implanted at the center for identifying the location and shall be set flush with the finished grade.

(b) *Iron pipe and rod monuments.* All lot corners not requiring concrete monuments shall be marked with iron pipe monuments or iron rod monuments each not less than five-eighths inch (_") in diameter and twenty-four inches (24") long. Such monuments shall be driven so as to be flush with the finished grade. As used herein, the term "iron" shall include iron, steel or any ferrous material exhibiting the strength, longevity and magnetic properties commonly associated with iron. When rock is encountered, a hole shall be drilled four inches (4") deep in the rock, into which shall be cemented a steel rod not less than one-half inch (½") in diameter, the top of which shall be flush with the finished grade line.

(c) *Inspection.* Upon completion of subdivision streets, sewers, waterlines and other improvements, all survey monuments required by this chapter shall be clearly visible for inspection and use. Subsequent to completion of all improvement, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor's certification that the monuments as shown on the record plat have been installed, were properly set, are property aligned, and are undamaged. The subdivider shall be responsible for replacing any monument which is damaged, destroyed, removed, or knocked out of alignment during construction.

Sec. 20.5-79. Subdivision and street names.

(a) Names of proposed subdivisions or streets shall not duplicate or nearly duplicate the name, spelling or sound of any existing or approved subdivision or street name within the county or within any por-

tion of an abutting jurisdiction which is in an automatic and mutual emergency response area and/or where such a mutual emergency response agreement has a reasonable potential to be established.

(b) Proposed streets which align with planned, recorded or existing streets shall generally bear the name of the planned, recorded or existing streets. The agent, however, in consultation with the public safety department, may require the use of a different street name when it is determined that such action is in the best interest of public safety.

(c) Subdivision and street names shall be indicated on the preliminary plan, development plan, final plat and record plat and shall be approved by the agent.

(d) Names of recorded or existing subdivisions or streets shall not be changed except by resolution of the board.

Sec. 20.5-80. Street signs.

(a) Permanent street identification signs of a design approved by the agent shall be installed at all intersections by the subdivider. Permanent street signs shall have reflective backgrounds and lettering and shall conform with the following size standards based on the existing or anticipated posted speed limit of the roadway to which the sign faces:

		Lettering Height	
Speed Limit	**Sign Size**	**Upper case**	**Lower case**
≤ 35 mph	**9" x 30-48"**	**5"**	**2½"**
36-50 mph	**12" x 30-60"**	**6"**	**3"**
> 50 mph	**18" x 55"**	**12"**	**9"**

The agent will arrange for fabrication and installation of such signage upon the payment of the applicable fee as determined in accordance with section 20.5-13(e).

(b) Prior to the issuance of building permits, temporary street identification signs shall be installed, by the subdivider, at all street intersections through which access to the lot(s) upon which construction will occur passes.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-81. Entrance signs.

Entrance signs or monuments to identify the subdivision shall conform with the provisions of the zoning ordinance and the following standards:

(a) The maximum size and the maximum height of such signs shall be in accordance with the standards established in chapter 24.1, zoning, of this code. . Signs have a minimum setback requirement of ten feet (10') and shall not encroach into sight triangles required by section 20.5-101.

(b) Only the subdivision name and logo and any symbols indicating compliance with or participation in a governmentally sponsored or mandated fair housing practices program or code may be placed on any such sign. The agent may authorize signs on both sides of a development entrance, and at multiple entrances to the development, provided that no individual sign shall exceed the allowable sign area specified by the zoning ordinance.

(c) Where such signs are to be illuminated, only external illumination shall be permitted and the size, placement, and number of luminaires shall be reviewed and approved by the agent.

(d) A landscaped planting area shall be provided surrounding the base of such sign. The minimum size of such planting area shall be four (4) square feet for each one (1) square foot of sign area. Appro-

priate groundcovers (other than grass) and shrubs shall be installed within the planting area, including a minimum of six (6) shrubs.

(e) Walls, fences and other similar treatments which delineate or define the entrance to or boundaries of a subdivision shall require the submission of architectural renderings for approval by the agent.

The agent shall deny or require modification of plans for such features when he finds that the installation would be visually obtrusive upon adjacent properties or public streets, be incompatible with the character of existing or anticipated surrounding development, or conflict with other goals and policies of the county.

Nothing contained in this section shall be interpreted to prevent the mounting of entrance signs on decorative fences or walls.
(Ord. No. 05-33, 12/20/05)

Sec. 20.5-82. Addresses and parcel identification numbers.

Addresses and parcel identification numbers (PIN) shall be assigned by the county during review of development plans. The parcel identification numbers shall be shown on the final plat and record plat, either within the boundaries of the lots or in tabular form on the plat. Once assigned, neither addresses nor parcel identification numbers shall be changed or otherwise altered except upon the direction of the agent.

Sec. 20.5-83. Preservation of natural features and cultural resources.

The natural terrain and features of the land, including heritage, memorial, significant and specimen trees, natural watercourses, perennial streams, and other water areas, historic and archaeological sites, scenic areas and other features and resources worthy of preservation located within the area encompassed by any proposed subdivision of property in the county shall be preserved and protected during the development process to the extent possible while enabling reasonable development of property. In this regard, no more land disturbance than absolutely necessary to accommodate reasonable development shall occur and extensive cut and fill of the natural topography shall not be allowed.

The removal of trees or the clearing and grading of land by the subdivider shall be generally permitted only to accommodate the construction and installation of those improvements required by this chapter or other portions or this code or on those lots for which a valid building permit has been issued. Mature trees throughout the remainder of the area encompassed by any proposed subdivision of property shall be protected in accordance with the Virginia Erosion and Sediment Control Manual or other generally accepted tree protection measure during construction and installation of subdivision improvements. In any case, limits of clearing and grading shall be clearly shown on development plans.
(Ord. No. 05-33, 12/20/05)

Sec. 20.5-84. Landscaping, buffers and screening.

(a) *Landscaping.*

(1) Entrances and common areas shall be landscaped by the subdivider with appropriate combinations of trees, shrubs, grass and groundcovers except where the existing mature trees have been preserved and protected in such areas. Unless the agent determines that such landscape treatment is unnecessary, impractical or in conflict with drainage, utilities, or other required features of the subdivision, the cleared portions of entrance and common areas in residential subdivisions shall be landscaped with a minimum of one (1) tree and one (1) shrub for each one thousand (1,000) square feet contained in such areas exclusive of roadways, sidewalks, recreational facilities, or other paved areas.

(2) All landscape treatments required by this chapter or the zoning ordinance shall be designed, arranged, installed and maintained in accordance with the landscaping standards contained in the zoning ordinance.

(b) *Tree planting and replacement.*

(1) In accordance with section 15.2-961, Code of Virginia, trees shall be preserved, planted or replaced on all residential lots, excluding recreation lots. Tree preservation/planting shall be

accomplished such that, within twenty (20) years growing time, the minimum tree canopy or cover on residential lots shall be twenty percent (20%).

(2) The required tree canopy or cover shall generally be evenly distributed across the lot with a preference for trees located in front of the principal building and along the rear property line.

(3) The calculation of tree canopies shall be based on the Manual of Woody Landscape Plants, 4th edition, 1990, by Michael A. Dirr (ISBN 0-87563-347-1) or Street Tree Factsheets, 1993, Municipal Tree Restoration Program, Pennsylvania State University (ISBN 1-883956-00-5) as they may from time to time be amended.

(4) Existing trees which are to be preserved and used to meet all or part of the canopy requirements shall be protected before, during, and after the development process in accordance with those standards contained in the zoning ordinance.

(5) Newly planted trees and shrubs shall be selected, installed and maintained in accordance with the standards contained in the zoning ordinance.

(6) In all subdivisions in nonindustrial zoning districts, deciduous shade, or ornamental trees shall be planted as street trees along all rights-of-way within and abutting the subdivision. Such trees shall be located either within the right-of-way itself or within a ten-foot (10') landscape preservation easement contiguous to such right-of-way and shall contain, at a minimum, one (1) tree planted approximately every forty feet (40'). Where located within an easement, the subdivider shall dedicate the easement together with a maintenance easement to the property owners' association or other entity approved by the agent and county attorney. All trees planted to meet this requirement shall have a minimum caliper of two and one-half inches (2½") and conform with the relevant provisions of the zoning ordinance. Existing trees which are within twenty feet (20') of the edge of the right-of-way and which are protected and preserved in accordance with the standards contained in the zoning ordinance may be used to satisfy the planting requirement.

(7) The subdivider shall have the option to meet the requirements of this subsection through actual installation/retention, a postponed improvement agreement with surety, establishment of restrictive covenants, or some combination which achieves the same intent.

(c) *Buffers.* A landscaped buffer, broken only by necessary entrances approved by the agent, shall be established on all residential lots along all major roads abutting a proposed subdivision. Such roads shall be defined to include Routes 17, 105, 132, 134, 143, 171, 199, and Interstate 64 and such other routes as may be specified in section 24.1-245 of the zoning ordinance.

(1) The minimum width of said landscaped buffer shall be thirty-five feet (35'), or such greater dimension as may be prescribed by the zoning ordinance, measured from the edge of the existing or reserved right-of-way.

(2) A landscape preservation easement, acceptable as to content and form by the county attorney and encompassing the required buffer, shall be granted to the county.

(3) The buffer shall be landscaped in accordance with the landscaping requirements contained section 24.1-243(a)(1) of the zoning ordinance, provided however, that lakes which are at least thirty-five feet (35') in width and are adjacent to such roadways shall be deemed to meet this requirement without the provision of the landscaping required herein.

(d) *Screening fences.*

(1) Screening fences supplemented by appropriate landscaping shall be required between proposed commercial/industrial subdivisions and abutting property used for residential purposes where the agent determines that such fences are necessary by reason of use, topography, building location, or other physical aspect of the site.

(2) Screening fences shall be constructed of wood or masonry and the agent shall specifically review and approve both the location and design of the screening fence. Fences facing streets shall be finished on the street side.

(3) Where required, such screening fences and supplementary landscaping shall be included within the terms of any subdivision agreement entered into by the subdivider and the county.

(4) All screening fences shall be erected in accordance with proper construction standards, shall be maintained in good repair, and shall be kept free from trash, litter, or debris.

(5) All screening fences shall be designed and located so as to not interfere with fire hydrants and fire department connections.

(e) The agent may reasonably modify, transfer, or grant an exception to the requirements contained in this section upon a finding that strict application of the requirements would result in unnecessary or unreasonable hardship and that practicable alternatives to such strict application would achieve a similar intent. Any request for such modification, transfer, or exception shall be made in writing and clearly state the reasons for such request.

(Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09)

Sec. 20.5-85. Chesapeake Bay preservation area.

Within Chesapeake Bay preservation areas, all development associated with the subdivision of land shall comply with the special performance standards and requirements set forth in Chapter 23.2. Lot size shall be subject to the requirements of the underlying zoning district(s) provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards set forth in Chapter 23.2 so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by the terms of Chapter 23.2. On newly created lots, the lot size and configuration shall be such that principal buildings can be located at least ten (10) feet from the RPA buffer.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-86. Common property.

All lands and improvements which are not a part of individual lots or dedicated to the ownership and use of the general public but which are for the mutual benefit of the persons residing in or owning lots in the subdivision shall be established, designated, and maintained as common property. Such property shall not be developed for commercial or residential purposes or for the exclusive use of any individual within the subdivision. The creation of such property shall conform in all respects to the requirements set forth in section 24.1-496 through 499 of the zoning ordinance.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-87. Recreation and open space areas.

The subdivider of residential property shall provide reasonable allowances for the active and passive recreation needs of the future residents of the subdivision. Except in approved planned developments, the following standards shall apply:

(a) Recreation and open space areas shall be provided in residential subdivisions having twenty-five (25) lots or more. Such recreation and open space areas shall contain a minimum land area equal to seven and one-half percent (7.5%) of the cumulative area of lots being subdivided.

(b) The recreation area shall consist of a single parcel unless otherwise approved by the agent.

(c) The agent shall determine that the land to be incorporated into the recreation and open space areas is suitable for recreational purposes (passive or active), the development of recreational facilities, or preserves appropriate and sensitive features of the site.

(d) The land areas reserved as recreation and open space area may be reduced by one-half where the subdivider elects to develop recreational facilities for the use of the future residents of the subdivision. The following standards shall apply:

(1) All facilities shall be designed and constructed in accordance with the county's standards for recreational facilities or other acceptable standard or facility design approved by the agent.

(2) The mix of facilities shall be reasonably related to the market orientation of the residential units in the subdivision.

(3) The planned development "core recreation facilities" contained in the zoning ordinance shall guide the design and construction of recreation areas.

(4) The recreation facilities shall be completed and available for use prior to the issuance of any certificates of occupancy for dwelling units in the subdivision. The agent may, however, approve a phased development schedule for recreational facilities which generally corresponds to the overall phasing of the subdivision itself.

(e) Development plans for recreational facilities shall be prepared and submitted in accordance with the provisions of article V of the zoning ordinance.

Sec. 20.5-88. Land for public purposes.

Where a subdivider dedicates land for public purposes including, but not limited to, parks, playgrounds, well lots, schools, libraries, municipal buildings, and similar public or semi-public uses, it shall be of a character, size, dimension, and location suitable for the particular use for which the land is dedicated.

Secs. 20.5-89—20.5-90. Reserved.

DIVISION 2. STREETS AND ROADS

Sec. 20.5-91. Street and road classifications.

All new streets and roads shall be classified as “local” streets as defined by the Virginia Department of Transportation and, for the purposes of this chapter, shall be further classified according to their function and the projected average daily traffic (ADT). Average daily traffic shall include all traffic projected to result from the complete development of land served by the subject street, including both internal and external trips. The trip generation rates contained in the most current edition of the Trip Generation Manual (Institute of Transportation Engineers) shall be used to determine the projected ADT. The classification based on ADT shall take precedence over the functional description for purposes of determining street geometrics.

(a) *Traffic volume classification and description*. New streets shall be classified according to the following table based on the total traffic projected for the street at full development, including full development of adjoining properties which reasonably may be expected to produce or attract traffic which will utilize the street:

Street Classification	Minimum ADT	Maximum ADT
Access	—	250
Subcollector	251	400
Minor Collector	401	2000
Major Collector	2001	8000
Minor Arterial	8001	12000
Major Arterial	Over 12000	

(b) *Design limitations*:

(1) *Access street*: carries only the volume of traffic generated on the street itself.

(2) *Subcollector street*: may carry the volume of at least one access street in addition to its own volume.

(3) *Collector street:* unsuitable for providing direct residential lot access, however, occasionally no suitable alternative exists.

(4) *Arterial street:* direct residential lot access is prohibited and commercial or industrial lot access is controlled and limited to high trip volume generators.

(c) *Existing streets.* Where existing streets which are not otherwise classified by the comprehensive plan abut or affect the design of a proposed subdivision, such existing streets shall be classified in accordance with the functional and traffic volume descriptions contained in this chapter.

(Ord. No. O98-20, 11/4/98; Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09)

Sec. 20.5-92. Alignment and layout.

(a) In accordance with section 15.2-2241-2, Code of Virginia, all proposed streets shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision or within existing or future adjacent subdivisions as to location, width, grades, and drainage. Connections with existing or platted streets shall be continuous without offset.

(b) The agent shall require that adequate rights-of-way are platted and dedicated for public use to the boundary line(s) of the subdivision which will afford desirable and safe street access to adjoining properties when such properties are of a compatible land use designation. In such cases, the following requirements shall apply:

(1) These rights-of-way shall be clearly marked on the plats and labeled "Future Public Street" or "Future Public Street Extension" as appropriate. In addition, a sign shall be posted on the stub street right-of-way indicating that it is intended for a future roadway connection. Such sign shall be fabricated and installed by the County, with the costs of fabrication/installation to be paid by the subdivider.

(2) The following notation in, at a minimum, twelve (12) point lettering shall be incorporated into any plat showing a stub or future street:

THIS RIGHT-OF-WAY IS PLATTED WITH THE INTENT OF BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES.

(3) The following statement shall be included on the conveyance documents for any lot on a stub or future street:

THE RIGHT-OF-WAY UPON WHICH THIS LOT FRONTS HAS BEEN PLATTED WITH THE INTENT OF IT BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK _____, PAGE _____/INSTRUMENT NO. _____, CIRCUIT COURT FOR YORK COUNTY.

(c) Where a street right-of-way in an existing subdivision or development has been platted to the boundary line of a proposed subdivision, it shall be extended and continued into such proposed subdivision unless a waiver is granted by the department of transportation. In situations where the department of transportation grants a waiver to the street interconnection requirement, an alternative means for bicycle and pedestrian access may be required to be provided in close proximity to the otherwise required street based on local site conditions. Such bicycle and pedestrian facilities shall be either within an existing right-of-way or in a separate right-of-way and shall be designed and constructed in accordance with Figure VI-B in appendix A or with the standards used by the Virginia Department of Transportation for such facilities.

(d) Street intersections shall be spaced and designed in accordance with the standards set forth in the Virginia Department of Transportation Subdivision Street Design Guide, dated July 1, 2009, and as may be amended from time to time.

(e) All subdivisions shall have two (2) means of ingress and egress.

(Ord. No. O98-20, 11/4/98; Ord. No. 099-6, 4/7/99; Ord. No. 05-33, 12/20/05; Ord. No. 08-12, 8/19/08; Ord. No. 09-17, 8/18/09)

Sec. 20.5-93. Rights-of-way.

All subdivisions, with the exception of boundary line adjustments which merely relocate a boundary line without an increase in the number of lots, shall be subject to the following requirements:

(a) Where a subdivision abuts an existing public right-of-way which has a width deficiency created either because it is less than fifty feet (50') in width or because adopted plans show that a greater width will be necessary to accommodate those plans, the subdivider shall be required to dedicate additional rights-of-way as follows:

(1) Where the subdivision abuts one (1) side of the right-of-way, the subdivider shall dedicate one-half (1/2) of the right-of-way deficiency along the frontage of the subdivision.

(2) Where the subdivision abuts both sides of the right-of-way, the subdivider shall dedicate all of the right-of-way deficiency along the frontages of the subdivision.

(b) Where the subdivision embraces any part of an arterial or collector street or thoroughfare shown on an approved Comprehensive Plan, official map, or state or regional transportation plan, such street or thoroughfare shall be platted for dedication in the location and width indicated on such plan or map or as deemed necessary by the Virginia Department of Transportation (VDOT) and, except in the case of a limited or controlled access facility, shall be constructed and integrated as a part of the subdivision.

(c) The minimum right-of-way width shall be fifty (50) feet, or such greater width as may be specified by the Virginia Department of Transportation.

(Ord. No. O98-20, 11/4/98; Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09; Ord. No. 13-8, 6/18/13)

Sec. 20.5-94. Geometric standards.

(a) All streets shall have a continuity of design throughout their entire length. Multiple or step-down designs shall not be permitted except that a transition may be permitted at a four-way intersection or other major traffic generator which would constitute a clear demarcation of such change.

(b) Geometric standards for streets without curb and gutter shall be as set forth in the VDOT Subdivision Street Design Guide, dated July 1, 2009, and as may be amended from time to time.

(c) Geometric standards for streets with curb and gutter shall be as set forth in the VDOT Subdivision Street Design Guide, dated July 1, 2009, and as may be amended from time to time.

(Ord. No. O98-20, 11/4/98; Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09)

Sec. 20.5-95. Construction standards.

(a) Unless otherwise specifically provided in this chapter, construction of all subdivision streets shall be in conformance with department of transportation requirements.

(b) Subdivision street cross-sections shall be based on the load bearing capacities of soils located within proposed street rights-of-way as detailed in a subsurface soils report, certified by a geotechnical engineer. The agent may, however, upon the recommendation of the department of transportation, waive or modify this requirement when there is sufficient cause to believe that such a report is unnecessary.

(c) Street construction plans shall be submitted to and approved by both the department of transportation and the county as a part of the review process required by this chapter.

(d) Street construction surety shall not be fully released until said street(s) have been accepted into the state secondary system.

Sec. 20.5-96. Curb and gutter streets.

(a) Curb and gutter streets shall be required in all subdivisions having a minimum lot size of twenty-eight thousand (28,000) square feet or less and in all subdivisions developed under the cluster subdivision provisions of the zoning ordinance, regardless of lot size provided, however, that the agent may waive or modify this requirement for infill lots created along an existing street which has been developed without curb and gutter.

(b) Where the minimum lot size exceeds twenty-eight thousand (28,000) square feet, curb and gutter streets shall be required in any subdivision where the longitudinal slope (flowline slope) of any roadside ditch is less than one percent (1%) and the maximum depth is three feet (3'). The depth of ditches shall be measured from the invert elevation to the adjacent existing or finished grade, whichever shall yield the greatest depth. However, the agent may permit this ditch depth to be exceeded where the natural topography is so severe, exceptional, or extraordinary as to make other options impractical or infeasible based on sound engineering practice and principles. Any request for such consideration shall be made in writing and be accompanied by supporting information to substantiate the request for the modification to the ditch depth requirement.

(c) The subdivider of any subdivision exempted from the requirements for curb and gutter established above shall provide a subsurface soils report certified by a geotechnical engineer. Said report shall indicate and describe the various soil strata encountered, specify the soil types based on the unified soil classification system, indicate the elevation of the seasonal high water table, and indicate the presence of perched water table conditions. Such report shall further indicate the probability that the proposed roadside ditch system will intercept flowing groundwater or springs, or will contain water as the result of the seasonal high water table or tidal flows. If either of these situations is found to have a high probability of occurrence, curb and gutter shall be required.

(d) If curb and gutter is required for any portion of a subdivision, it shall be required for the entire subdivision.

(e) Where curb and gutter is required, the minimum longitudinal slope shall be three-tenths of one percent (0.3%).

Sec. 20.5-97. Cul-de-sac streets.

(a) Cul-de-sac streets shall generally not exceed six hundred feet (600') in length. The length shall be measured from the end of the cul-de-sac to the closest intersection which provides a means of egress from the subdivision, either directly or indirectly. Where the agent determines that the topography, property configuration or other physical constraints are such that a cul-de-sac of greater length is required or desirable for the effective and efficient development of the property, the agent may authorize cul-de-sacs which exceed six hundred feet (600') in length. In such cases, the cul-de-sac street shall generally be designed with a landscaped median which divides the cul-de-sac street into (2) two distinct and separate lanes. Such street may, however, be continuously undivided for the final six hundred feet (600') measured from the end of the turnaround. Median breaks shall be provided at street intersections and at other appropriate locations along the street to ensure good traffic circulation and the delivery of emergency services. In general, this means that median breaks should occur approximately at three hundred foot (300') intervals. In consultation with the department of fire and life safety, the agent may waive or modify the median requirement if it is determined that such a design will not aid emergency access and operations.

(c) Cul-de-sac streets shall be terminated by a turnaround having a minimum pavement radius of forty-five feet (45') or such other design as may be approved by the department of transportation with the concurrence of the department of fire and life safety.

(Ord. No. 05-33, 12/20/05; Ord. No. 09-17, 8/18/09)

Sec. 20.5-98. Driveways and entrances.

a) The minimum spacing between the tangent point of an intersection and permitted driveways or entrances, and between driveways or entrances themselves, shall be in accordance with the following table based on the street classification, provided, however, that a greater or lesser distance may be stipulated by the agent upon the recommendation of the department of transportation. Reduction of these spacing requirements shall be permitted when the property configuration or location would preclude strict application of these standards, provided however that where an alternate access arrangement or an internal access system is practical and feasible, multiple driveways or entrances not in conformance with these spacing standards shall not be permitted.

Classification	Minimum Spacing (feet)
Access	20

Subcollector	**25**
Minor Collector	**50**
Major Collector	**50**
Minor Arterial	**125**
Major Arterial	**175**

(b) The width of residential driveways shall be not less than nine feet (9') and not greater than twenty feet (20') measured at the edge of the right-of-way.

(c) Driveways or entrances to lots created adjacent to streets classified as major collector, minor arterial, or major arterial shall conform with the following standards:

(1) Where all of the lots I) front on a single roadway so classified, ii) extend the full depth of the parent tract and, iii) no further subdivision of those lots is possible, each two (2) abutting non-residential lots shall be permitted one (1) driveway or entrance access point which shall be identified and noted on the final and record plat as being the access for both non-residential lots. Each residential lot shall be entitled to an individual access. In all other cases, an internal access system shall be developed.

(2) Where any lots created are to front on or obtain access from an internal access system, such system shall be designed to provide the access to all lots. Access onto the above classified streets shall be permitted only where the internal access system intersects such streets.

(3) A restricted access easement ten feet (10') in width shall be shown on the final and record plat and be recorded along the entire frontage except at the above permitted access points.

(4) The agent may grant exceptions to these requirements with the concurrence of the department of transportation upon finding that:

a. The need for, and safety of, such additional access points has been substantiated in a traffic impact analysis prepared in accordance with article II, division 5 of the zoning ordinance to the satisfaction of the agent; and

b. All applicable spacing and clearance requirements as prescribed by this chapter, the zoning ordinance, and the department of transportation can be met.

(d) Except for single-family detached residential development, the use of shared access arrangements shall be the preferred alternative.

Sec. 20.5-99. Alleys.

In certain situations, the use of alleys may be a desirable alternative to the more traditional type of residential development. Alleys may be permitted in residential planned developments, cluster development, or similar residential subdivisions where average lot widths are less than seventy feet (70'), however, the following conditions shall apply:

(a) Frontage on an alley shall not be construed to satisfy any lot frontage requirements.

(b) Alleys shall be maintained and perpetuated by a duly constituted property owners' association and notations to this effect, including a note that such alleys will not be eligible for acceptance and maintenance by the Virginia Department of Transportation, shall be clearly indicated on the face of the record plat.

(c) Alleys shall have a minimum right-of-way width of sixteen feet (16'), a minimum pavement width of twelve feet (12') and a maximum length of five hundred feet (500').

(d) Alleys shall be designed to minimize or eliminate the potential for through traffic.

(e) Alleys shall intersect only access or subcollector streets.

(f) If curb and gutter is used, it shall be of a roll-top type design.

(g) All structures, including garages and fences shall be set back a minimum of ten feet (10') from the edge of the alley right-of-way. Alleys shall not be considered streets or roads for the purpose of front yard setback requirements.

(h) Where alleys are proposed to terminate in a cul-de-sac, either a circular or a "T" or “Branch” turnaround shall be provided with a minimum outside turning radius of thirty feet (30').

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-100. Regulatory and traffic signs.

(a) The subdivider shall be responsible for the provision of all regulatory and traffic signs required to maintain and ensure traffic safety during and after construction of improvements. This shall include the provision, if required by the agent after consultation with the department of transportation, of temporary or permanent regulatory and traffic signs during construction.

(b) All required regulatory and traffic signs within any subdivision or section thereof shall be installed prior to occupancy of any structure constructed on any lot in said subdivision or section thereof.

(c) All intersections of subdivision streets with existing public roadways shall be provided with appropriate STOP or YIELD signs, as determined by the agent after consultation with the department of transportation, prior to the issuance of any building permits for any structure on a lot contained within said subdivision accessed directly or indirectly through such intersection.

Sec. 20.5-101. Sight distance triangles.

(a) Sight triangles shall be required at all street intersections. Such sight triangles shall include the area on each corner that is bounded by the corner radius formed by the right-of-way/property line and a line connecting the property monuments at the two ends of the corner radius.

(b) Signs, plantings, structures or other obstructions which obscure or impede sight lines between three feet (3') and six feet (6') in height above grade shall be prohibited within the sight triangle.

(c) The sight triangle shall be clearly shown and its purposes noted on the final plat.

(d) A right-of-entry for the purpose of removing any object, material or other obstruction that hinders the clear sight across the area shall be dedicated to the county and the Virginia Department of Transportation.

(e) In the event the sight distance standards specified by the VDOT Subdivision Street Design Guide are more restrictive than the requirements of this ordinance, then the VDOT standards shall be observed.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-102. Private streets.

Private streets may be authorized by the agent in accordance with the applicable provisions of the zoning ordinance as it applies to planned developments, cluster subdivisions, and attached residential development and shopping centers. Where authorized, private streets shall conform with the following requirements:

(a) The streets shall be designed to meet or exceed the geometric standards specified by the VDOT Subdivision Street Design Guide, provided however that the agent may approve minor deviations where the resulting design is clearly equal to or superior to that which would otherwise result.

(b) The streets shall be designed to meet or exceed the construction standards specified by the VDOT Subdivision Street Design Guide, provided however that where unique or nonstandard surface treatments are proposed, the agent may approve deviation from the standards provided that the subdivider provides evidence, certified by a professional engineer, that the proposed alternative will have the same or reduced maintenance requirements as would the otherwise required surface treatment.

(c) A duly constituted property owners' association shall be vested with ownership of and maintenance responsibility for private streets at the time of recordation.

(d) As provided by section 15.2-2242-3, Code of Virginia, each plat on which such a private street is shown shall contain, in addition to all other required notations and certifications, the following notation prominently displayed in, at minimum, twelve (12) point lettering:

> *THE STREET(S) SHOWN HEREON IS/ARE PRIVATE, MAY NOT MEET STATE STANDARDS, AND WILL NOT BE MAINTAINED BY EITHER THE COMMONWEALTH OF VIRGINIA OR THE COUNTY OF YORK. MAINTENANCE OF THE ROAD(S) AND RIGHT(S)-OF-WAY SHOWN HEREON IS/ARE THE RESPONSIBILITY OF THE PROPERTY OWNERS ASSOCIATION FOR THE LOTS CREATED BY THIS PLAT.*

Grantors of any subdivision lot to which the above statement applies must include the statement on each subsequent deed of conveyance thereof.

(e) The subdivider shall be required to guarantee and post surety for the construction of any private streets authorized herein.

(f) Private streets shall be inspected at the expense of the subdivider both during and after construction by an independent testing and engineering firm to ensure that the road design and construction meets or exceeds the standards of the department of transportation for public roads of the same class and volume. Certification to this effect by an engineer licensed in Virginia shall be submitted to the agent together with relevant logs and reports prior to the issuance of a certificate of occupancy for any structure having its sole access from a private street.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-103. Construction traffic access.

The agent shall specifically review and approve all construction entrances and the access routes to such construction entrances. In specifying and/or limiting construction traffic access routes to such entrances or the entrances themselves, the agent shall consider all available or potential access alternatives with the objective of ensuring pedestrian and vehicular safety within existing and/or developing residential neighborhoods. Construction traffic shall be deemed to include, but not be limited to, construction equipment used in site development or building activity, vehicles transporting such construction equipment and/or construction/building materials, and vehicles transporting persons engaged in site development, construction, or building activities.

Secs. 20.5-104—20.5-105. Reserved.

ARTICLE VII. PERFORMANCE

Sec. 20.5-106. Purpose.

The purpose of performance guarantees is to ensure the proper construction, installation and maintenance until final acceptance of required streets, utilities, and other public improvements. To the greatest extent possible, the nature and duration of such guarantees should be structured to achieve this goal without adding unnecessary development costs.

Sec. 20.5-107. Subdivision agreement.

Where the subdivider chooses to post surety in lieu of completion of those physical improvements shown on the approved development plan and/or final plat in order to allow recordation prior to completion and acceptance of all required public improvements, he shall enter into a subdivision agreement, approved as to content and form by the county attorney, with the county prior to recordation of the record plat by the agent. Said subdivision agreement shall be submitted to the agent no less than fifteen (15) days prior to the anticipated date of recordation. The agent shall provide to the subdivider a sample subdivision agreement during review of the final plat.

Sec. 20.5-108. Time of performance.

(a) The period within which improvements or installations shall have been completed and inspected for acceptance shall be specified in the subdivision agreement. Unless otherwise provided by the agent, the period shall not exceed one (1) year from the date of recordation of the record plat. In approving the time of performance of the subdivision agreement, the agent shall require a report containing the following information from the subdivider:

(1) Percent of public improvements already completed; and

(2) Rate of construction activity including the estimated completion date for each major feature (roads, sewer, water, lights, etc.) remaining to be completed.

The agent shall not permit subdivision agreement to be executed where, on the basis of the report submitted by the subdivider, it is apparent that the improvements or installations covered by said agreement cannot reasonably be expected to be completed by the deadline established therein.

(b) The issuance of residential building permits shall be directly related to the schedule for completion and acceptance by the county of all required public improvements. The agent and building official shall be satisfied that all required and necessary public improvements can reasonably be expected to be completed and accepted by the county within ninety (90) days of the issuance of a building permit for such residential structure. In no case, unless specifically authorized by other provisions of this Code or regulations promulgated pursuant thereto, may a certificate of occupancy be issued for any residential structure prior to full and final completion and acceptance by the county of all required and necessary public improvements provided, however, that this requirement shall not be construed to include the final surface treatment and acceptance of public streets by the department of transportation. The subdivider shall be required to include a clause in the contracts for sale of lots in the subdivision which discloses this requirement.

Sec. 20.5-109. Surety in lieu of completion.

(a) Where the subdivider wishes to record the record plat, but physical improvements and installations, including public and private streets, shown on the approved development plan and/or final plat have not been made, in whole or in part, the subdivider may, in accordance with section 15.2-2241(A)(5), Code of Virginia, enter into a subdivision agreement (as described above) with the county and submit performance surety in an amount sufficient for and conditioned upon the satisfactory construction or completion of said improvements or installations. Such physical improvements and installations shall include, but not be limited to, any street; curb; gutter; sidewalk; bicycle trail; drainage or sewerage system; waterline as part of a public system; other improvement intended for dedication to public use to be maintained by the county, the Commonwealth, some other public agency or a property owners' association; site-related improvements required by this or other chapters of this Code for vehicular ingress or egress; public access streets; structures necessary to ensure the stability of slopes; and stormwater management facilities. The amount of surety shall be acceptable to the agent and shall cover the full estimated cost of said improvements plus a reasonable allowance for administration, overhead, inflation and potential damage to existing improvements.

(b) Performance surety shall be submitted in such form as shall be acceptable to the agent and county attorney as to format, sufficiency and manner of execution and shall have been posted to the satisfaction of the agent and county attorney prior to recordation of the record plat by the agent.

(c) In those cases where performance surety has been posted and the required improvements or installations have not been completed within the terms of the subdivision agreement, the agent shall declare the subdivider to be in default and shall draw on the posted surety. After the funds or proceeds from the property have been received, the agent shall cause such improvements to be completed. The subdivider shall be fully and completely responsible and liable for the entire cost of completing the improvements, even when such cost exceeds the amount of surety.

(1) If the funds or proceeds from the surety are insufficient to complete the improvements, the agent and county attorney shall proceed to obtain such funds from the subdivider, its successors or assigns including such reasonable costs as may be expended in the process.

(2) If any funds remain after all improvements or installations are completed and accepted with all necessary fees paid and no defects are found therein which must be repaired, such remaining funds, less any such reasonable administrative or overhead costs which may have accrued, shall be returned to the subdivider within one hundred eighty (180) days of final acceptance of the final improvement or installation.

(d) Performance surety shall be released in accordance with the provisions of section 15.2-2245 of the Code of Virginia, provided, however, that "written notice of completion" shall consist of a set of "as-built" plans, a certificate of completion by a duly licensed engineer or surveyor, and a completed application form or letter to the agent requesting reduction or release of surety.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-110. Maintenance agreements.

(a) Upon completion of the required improvements other than public roads, the subdivider shall apply to the agent, in writing, for final inspection and approval for acceptance. After approval of the improvements by the agent, but before acceptance or the release of any surety, the subdivider shall enter into a maintenance agreement with the county and shall post surety in such form as may be approved by the county attorney, in the amount of five percent (5%) of the cost of the required improvements other than public roads or any other improvement for which the materials or workmanship are otherwise guaranteed for a period of at least one (1) year. Such agreement shall guarantee correction by the subdivider of any defects in materials or workmanship in the installation of such improvements by the subdivider for a period of one (1) year subsequent to approval and acceptance by the county.

(b) Maintenance agreements and payments for public roads dedicated or intended for dedication to the department of transportation shall be in accordance with the policies and regulations of the department of transportation in effect at the time of acceptance.

(c) In the event the board has accepted the dedication of any street for public use and such street, due to factors other than its quality of construction, is not accepted into the state system of highways, the subdivider shall furnish a maintenance and indemnifying agreement with surety in a form and amount acceptable to the agent and county attorney which is sufficient for and conditioned upon maintenance of said street until such time as it is accepted by the department of transportation.

(d) Any best management practice utilized in the subdivision which requires regular or periodic maintenance in order to continue its functions, shall further have such regular or periodic maintenance ensured by the agent through a maintenance agreement with the owner or developer, or through some other mechanism which achieves an equivalent objective.

Secs. 20.5-111—20.5-115. Reserved.

ARTICLE VIII. DEVELOPMENT IMPACT ANALYSIS

Sec. 20.5-116. Applicability and intent.

(a) It is the intent of the county that the transportation and water quality impacts of certain development proposals be evaluated during the review process and, where such impacts are negative, that they be ameliorated to the extent possible.

(b) The subdivider of any subdivision containing, or based on the existing zoning classification potentially containing more than fifty (50) lots shall prepare and submit to the agent a traffic impact analysis detailing the traffic impacts of the proposed subdivision, as defined in section 20.5-117.

(c) The subdivider of any subdivision which will involve development activity within a resource protection area as determined by the Natural Resources Inventory shall submit a water quality impact analysis in accordance with Chapter 23.2 which shall identify the impacts of the proposed subdivision and subsequent development thereon on water quality, the buffer and the lands in the resource protection area.

(Ord. No. 05-33, 12/20/05; Ord. No. 14-24, 11/18/14)

Sec. 20.5-117. Traffic impact analysis.

Where required, a transportation systems impact assessment shall be prepared and submitted to the agent at the time of preliminary plan submission, or at the time of development plan submission in the event a preliminary plan was not required or submitted. The traffic impact analysis shall include sufficiently detailed information to reasonably determine the impact of the proposed development on the existing and planned transportation network and systems and shall be prepared in accordance with the relevant provisions of the zoning ordinance. The traffic Impact analysis shall include all pertinent information relative to the proposed development phasing and shall be correlated with that phasing.
(Ord. No. 14-24, 11/18/14)

Sec. 20.5.118. Water quality impact assessments and impact studies.

(a) For subdivisions of land in Chesapeake Bay Preservation Areas, a Water Quality Impact Assessment shall be required at the time of preliminary plan submission, or at the time of development plan submission in the event a preliminary plan was not required or submitted. The water quality impact assessment shall be prepared in accordance with Chapter 23.2.

(b) For subdivisions of land in Watershed Management and Protection Areas, an impact study prepared in accordance with Section 24.1-376 of the Zoning Ordinance is required.
(Ord. No. 05-33, 12/20/05; Ord. No. 14-24, 11/18/14)

Sec. 20.5-119. Review of analysis.

The Agent shall review, or transmit to appropriate departments or agencies for review, all submitted impact analyses, water quality impact assessments and impact studies. Such analyses, assessments and studies shall form the basis for recommendations to or requirements of the subdivider for the appropriate design of potential mitigation efforts.
(Ord. No. 05-33, 12/20/05)

Secs. 20.5-120—20.5-125. Reserved.

ARTICLE IX. EXCEPTIONS, APPEALS AND VARIANCES

Sec. 20.5-126. Commercial and industrial subdivisions.

Commercial subdivisions and industrial subdivisions shall comply with all of the requirements of this chapter, provided, however, that the agent may, upon a determination that the public interest is equally well served, waive or modify the following requirements:

(a) The requirement that each lot created front on a public street or roadway provided that a notation to this effect shall be clearly shown on the final plat.

(b) The requirement that through lots have access to only the roadway with the lesser traffic volume, provided, however, that the agent may require that access to the road with the lesser traffic volume be restricted or prohibited.

(c) The requirement that new electric utility service be placed underground in industrial subdivisions provided, however, that this shall apply only to three-phase electrical service in industrial subdivisions in which unscreened outdoor storage is permitted. In granting such a waiver or modification, the agent shall review and determine the appropriate location for such overhead utility placement. Nothing in this subsection shall be interpreted to waive or modify any requirement of the zoning ordinance with respect to the location of on-site utilities.
(Ord. No. 05-33, 12/20/05)

Sec. 20.5-127. Townhouse and condominium subdivisions.

Townhouse, multiplex, and condominium subdivisions shall comply with all of the requirements of this chapter as well as those contained in chapter 24.1, Zoning, of this Code provided, however, that the agent may, upon a determination that the public interest is equally well served, waive the requirement that each lot created front on a public street or roadway. A notation to this effect shall be clearly shown on the final plat.

Sec. 20.5-128. Appeals and variances.

(a) The county board of zoning and subdivision appeals shall hear and decide appeals and applications for variances from the terms or administration of this chapter.

(b) The board of zoning and subdivision appeals shall have the following powers and duties with respect to the subdivision ordinance:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the agent or other administrative officer in the administration and enforcement of this chapter, provided however, that the subdivider may appeal the failure of the agent to approve or disapprove a plan or plat within the timeframes contained herein or the disapproval by the agent of such a plan or plat directly to the circuit court in accordance with section 15.2-2259, Code of Virginia.

(2) To authorize upon appeal or original application in specific cases a variance from the terms and conditions of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal interpretation and enforcement of the provisions will result in hardship and provided that the spirit of this chapter is upheld and substantial justice done, as follows:

a. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional size, shape, topography, or other extraordinary condition of the specific property or of the use and development of immediately adjacent property, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property, or where the board of zoning and subdivision appeals is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided, that all variances shall be in harmony with the intended spirit and purpose of this chapter.

b. No variance shall be authorized by the board of zoning and subdivision appeals unless it finds:

1. That the strict application of the chapter would produce substantial injustice or hardship;

2. That such hardship is not shared generally by other properties;

3. That the granting of such a variance will not be of substantial detriment to adjacent property; and

4. That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

c. In authorizing a variance, the board of zoning and subdivision appeals may impose such conditions regarding the location, character and other features of the proposal as it may deem necessary in the public interest, and may require performance guarantees to ensure that the conditions imposed are complied with and that such compliance will continue.

(c) Appeals of administrative decisions or determinations shall be filed with the secretary of the board of zoning and subdivision appeals within thirty (30) days of such decision having been rendered in writing, by any person aggrieved or affected by such decision or determination. Such application shall clearly state the grounds for appeal. The secretary shall transmit to the board of zoning and subdivi-

sion appeals the application, all supporting documentation, and all papers constituting the record upon which the appealed action was taken.

(d) An appeal shall stay all proceedings in furtherance of the appealed action unless the agent certifies to the board of zoning and subdivision appeals that, by reason of the facts stated in such certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order granted by the board of zoning and subdivision appeals or by a court of record, on application and on notice to the agent for good cause shown.

(e) Applications for variances may be filed with the secretary of the board of zoning and subdivision appeals by any subdivider. Such application and accompanying maps, plans or other information shall be promptly transmitted to the board of zoning and subdivision appeals and placed on the docket to be acted upon after public notice and hearing in accordance with section 15.2-2204 of the Code of Virginia. A copy of the application and accompanying documentation shall be transmitted to the planning commission which may send a recommendation or appear as a party at the hearing.

(f) The board of zoning and subdivision appeals shall fix a reasonable time for the hearing of an application for a variance or an appeal, but in no case shall it be heard more than seventy-five (75) days after a complete application, including fees, is filed with the secretary. Applications shall be decided no more than ninety (90) days from the date the complete application was filed.

(g) In exercising its powers and duties with respect to this chapter, the board of zoning and subdivision appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board of zoning appeals shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to effect a variance from the terms and conditions of this chapter.

(h) The board of zoning and subdivision appeals shall keep minutes of its proceedings and other official actions with respect to this chapter, said minutes to be filed in the office of the secretary to the board of zoning and subdivision appeals and maintained as public records. The chairman of the board of zoning and subdivision appeals, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(I) When the board of zoning and subdivision appeals has acted on an application with respect to this chapter, substantially the same application or appeal shall not be considered within one (1) year of the date of action.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-129. Appeals from decisions of the board.

Any person or persons individually or severally aggrieved by any decision of the board of zoning and subdivision appeals with respect to this chapter, or any taxpayer or any officers, department, board or bureau of the county may present to the circuit court of the county, within thirty (30) days after the rendering of said decision by the board of zoning and subdivision appeals, a petition specifying the grounds on which aggrieved and the relief sought. The court shall review and decide on such petition in accordance with the provisions of section 15.2-2314, Code of Virginia.

(Ord. No. 05-33, 12/20/05)

APPENDIX A. DIAGRAMS AND FIGURES

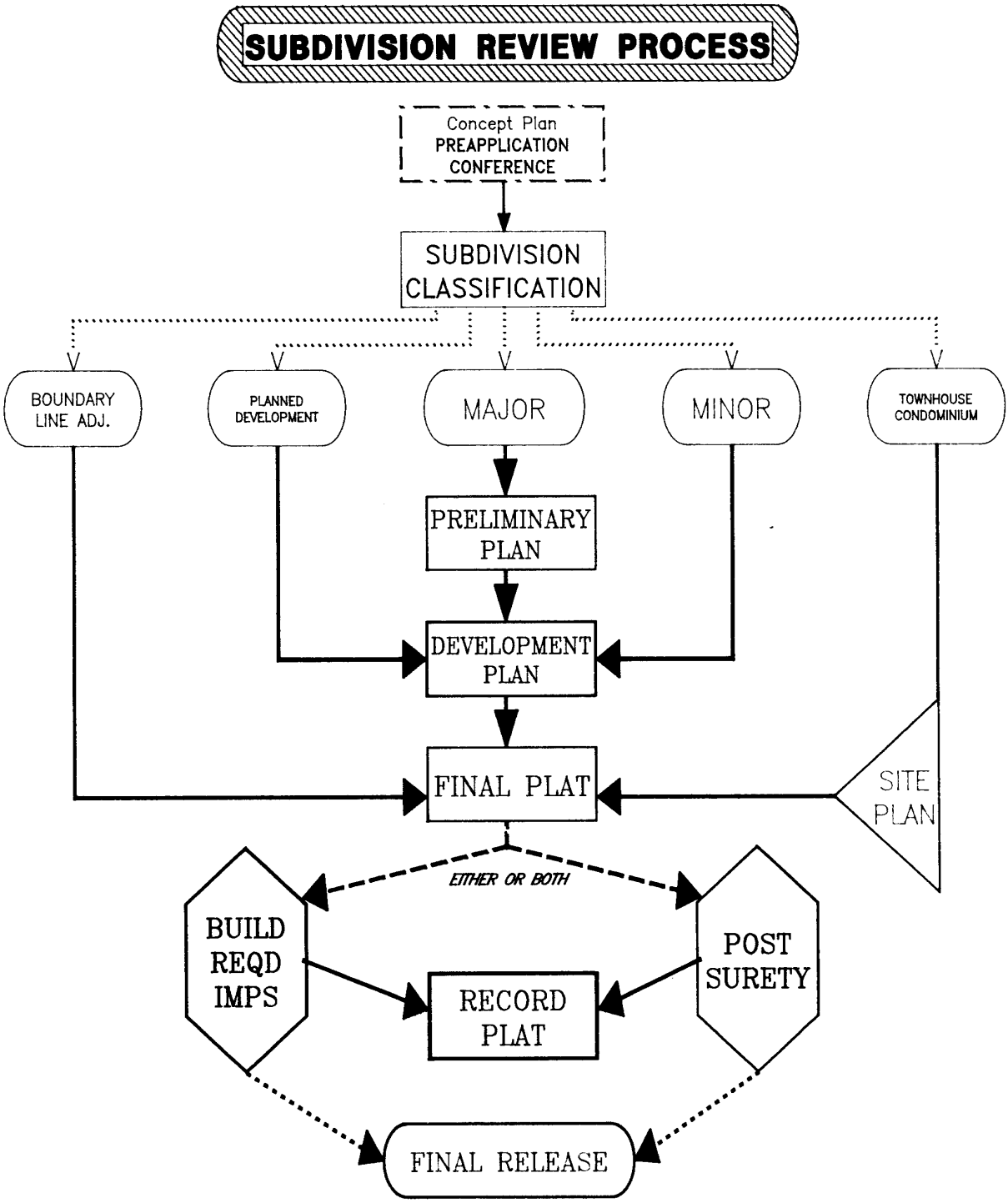
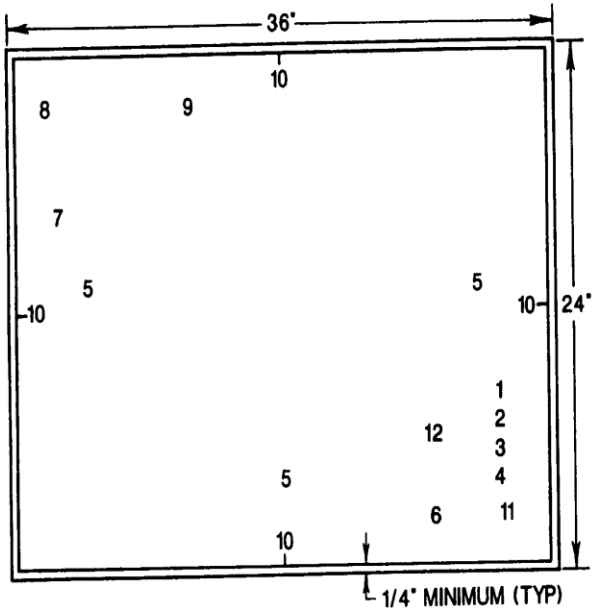


FIGURE III-A PRELIMINARY PLAN

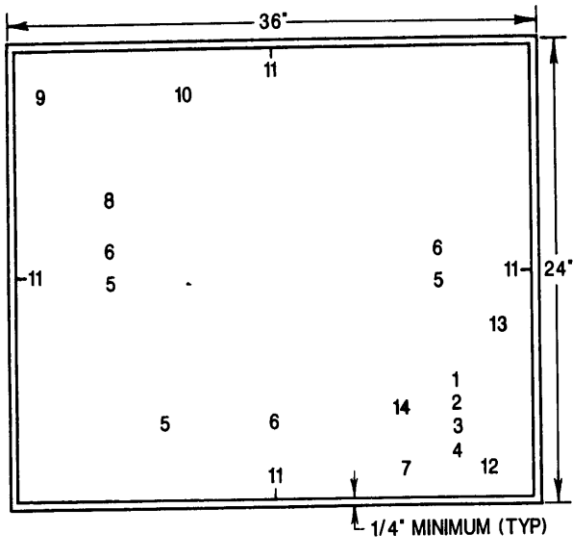


NOTES

1. ITEMS 1-4, 7, 8, 10, AND 11 MAY NOT BE RELOCATED ON THE DRAWING
2. ITEMS 5, 6, AND 9 MAY BE REARRANGED, IF NECESSARY, TO ACCOMODATE THE BODY OF THE SUBDIVISION DRAWING
3. SECTIONS 20.5-46 THROUGH 20.5-50 OF THE SUBDIVISION ORDINANCE OF YORK COUNTY SHALL APPLY TO THE PREPARATION AND SUBMISSION OF PRELIMINARY PLANS.

DRAWING COMPONENT	MINIMUM SIZES		
	DRAWING AREA	LETTERING HEIGHT	LINE WEIGHT
1. TITLE (AND SUBDIVISION SECTION, IF APPLICABLE)	N/A	30	4
2. DATE	N/A	14	1
3. SURVEYOR/ENGINEER	N/A	14	1
4. GRAPHIC SCALE AND WRITTEN SCALE	N/A	14	1
5. TABLE OF LAND USE AND STATISTICAL DATA	N/A	14	1
6. SURVEYOR/ENGINEER SEAL	N/A	N/A	N/A
7. OWNER AND SUBDIVIDER	N/A	14	1
8. VICINITY MAP (1"=2000')	4" X 4"	N/A	N/A
9. NORTH ARROW AND BASIS	N/A	14	3
10. CENTER TICK MARKS	N/A	N/A	00
11. NUMBER OF SHEETS	N/A	14	1
12. CLEAR AREA FOR COUNTY APPROVAL STAMP	3" X 5"	N/A	N/A

FIGURE IV-A DEVELOPMENT PLAN

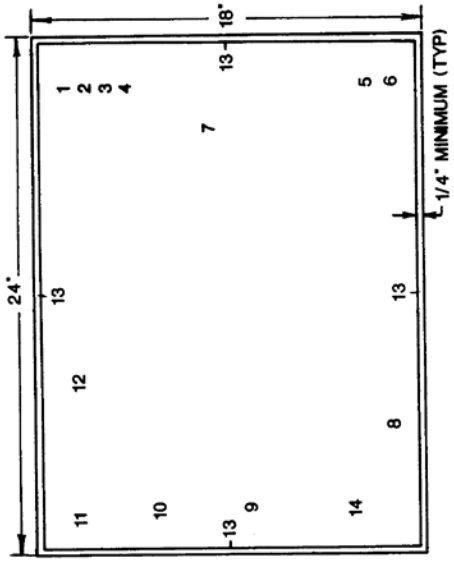


NOTES

1. ITEMS 1-4, 8, 9, 11, 12, AND 13 MAY NOT BE RELOCATED ON THE DRAWING
2. ITEMS 5, 6, 7, AND 10 MAY BE REARRANGED, IF NECESSARY, TO ACCOMODATE THE BODY OF THE SUBDIVISION DRAWING
3. SECTIONS 20.5-51 THROUGH 20.5-55 OF THE SUBDIVISION ORDINANCE OF YORK COUNTY SHALL APPLY TO THE PREPARATION AND SUBMISSION OF DEVELOPMENT PLANS.

DRAWING COMPONENT	MINIMUM SIZES		
	DRAWING AREA	LETTERING HEIGHT	LINE WEIGHT
1. TITLE (AND SUBDIVISION SECTION, IF APPLICABLE)	N/A	30	4
2. DATE	N/A	14	1
3. SURVEYOR/ENGINEER	N/A	14	1
4. GRAPHIC SCALE AND WRITTEN SCALE	N/A	14	1
5. TABLE OF STATISTICAL DATA	N/A	14	1
6. TABLE OF LAND USE DATA	N/A	14	1
7. SURVEYOR/ENGINEER SEAL	N/A	N/A	N/A
8. OWNER AND SUBDIVIDER	N/A	14	1
9. VICINITY MAP (1"=2000')	4" X 4"	N/A	N/A
10. NORTH ARROW AND BASIS	N/A	14	3
11. CENTER TICK MARKS	N/A	N/A	00
12. NUMBER OF SHEETS	N/A	14	1
13. INDEX OF SHEETS	N/A	14	1
14. CLEAR AREA FOR COUNTY APPROVAL STAMP	3" X 5"	N/A	N/A

Final Record/Plat



NOTES

1. ITEMS 1–6, 11 AND 13 MAY NOT BE RELOCATED ON THE DRAWING
2. ITEMS 7–10 AND 12 MAY BE REARRANGED, IF NECESSARY, TO ACCOMODATE THE BODY OF THE SUBDIVISION DRAWING
3. SECTIONS 20.5–56 THROUGH 20.5–61 OF THE SUBDIVISION ORDINANCE OF YORK COUNTY SHALL APPLY TO THE PREPARATION AND SUBMISSION OF FINAL/RECORD PLATS.

DRAWING COMPONENT	MINIMUM SIZES		
	DRAWING AREA	LETTERING HEIGHT	LINE WEIGHT
1. TITLE (AND SUBDIVISION SECTION, IF APPLICABLE)	N/A	42	4
2. DATE	N/A	14	1
3. SURVEYOR/ENGINEER	N/A	14	1
4. GRAPHIC SCALE AND WRITTEN SCALE	N/A	14	1
5. PLAT APPROVING AGENT CERTIFICATION	3" X 5"	20	1
6. CLERK OF THE COURT/RECORDATION CERTIFICATE	N/A	14	1
7. LEGEND, NOTES, ACREAGE, REFERENCES, ETC.	N/A	14	1
8. SURVEYOR/ENGINEER SEAL	N/A	N/A	N/A
9. SURVEYOR/ENGINEER CERTIFICATE	N/A	14	1
10. OWNERSHIP CERTIFICATE	N/A	14	1
11. VICINITY MAP (1"=2000')	4" X 4"	N/A	N/A
12. NORTH ARROW AND BASIS	N/A	14	3
13. CENTER TICK MARKS	N/A	N/A	00
14. UTILITIES NOTES	N/A	14	1

FIGURE V-A FINAL/RECORD PLAT

NOTES

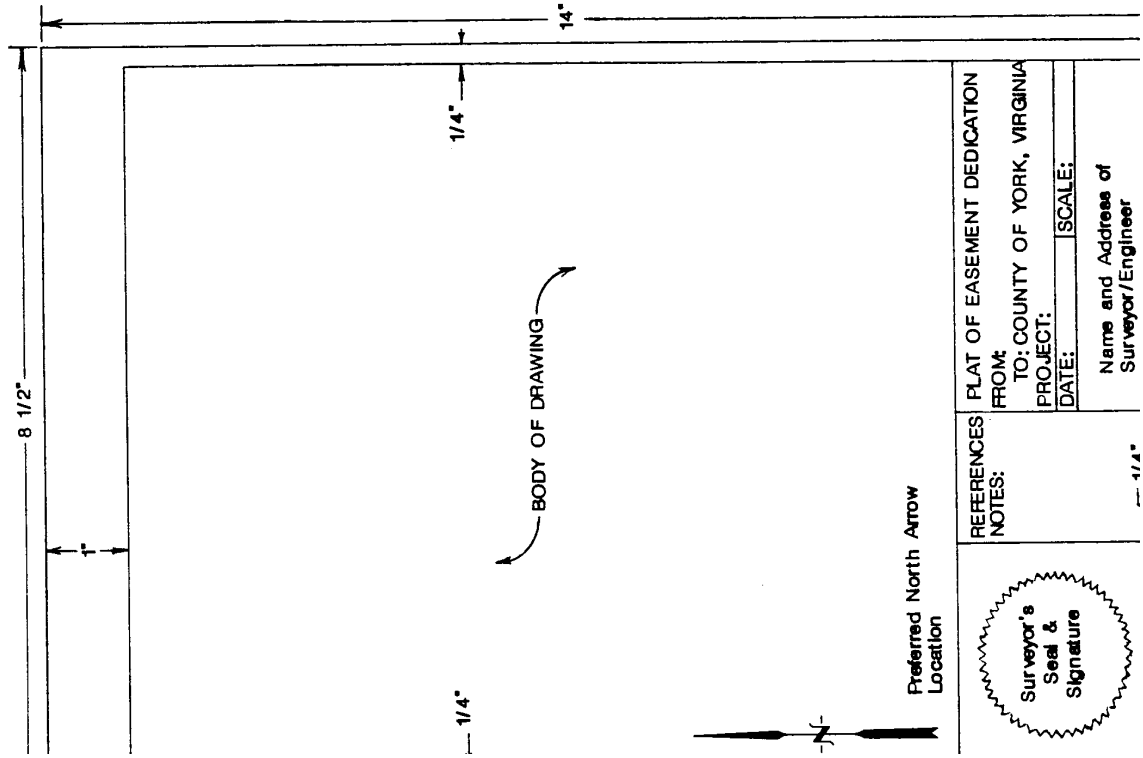
1. THE PLAT SHALL CONTAIN ONE OF THE FOLLOWING TITLES AS APPLICABLE:
   a). PLAT OF EASEMENT DEDICATION
   b). PLAT OF RIGHT-OF-WAY DEDICATION
   c). PLAT OF EASEMENT/RIGHT-OF-WAY DEDICATION

2. ALL EASEMENTS TO BE DEDICATED TO THE COUNTY SHALL BE SPECIFIED AS DRAINAGE AND UTILITY EASEMENTS UNLESS OTHERWISE SPECIFIED BY THE AGENT.

3. ALL EASEMENTS WHICH DO NOT FOLLOW PROPERTY LINES SHALL BE LOCATED BY A METES AND BOUNDS DESCRIPTION AND OTHER INFORMATION AS NECESSARY TO ACCURATELY LOCATE SUCH EASEMENTS.

4. ALL EASEMENTS WHICH FOLLOW DITCHES, SWALES STREAMS, ETC. MAY BE DESIGNATED AS FOLLOWING THE CENTERLINE OF SUCH DITCH, SWALE, OR STREAM. THE OUTER BOUNDARIES OF THE EASEMENT SHALL BE SHOWN.

5. THE FULL NAME OF THE PROPERTY OWNER AS SHOWN ON THE OWNER'S DEED MUST BE PROVIDED. ALSO, PROVIDE THE APPROPRIATE DEED REFERENCE ON THE PLAT.



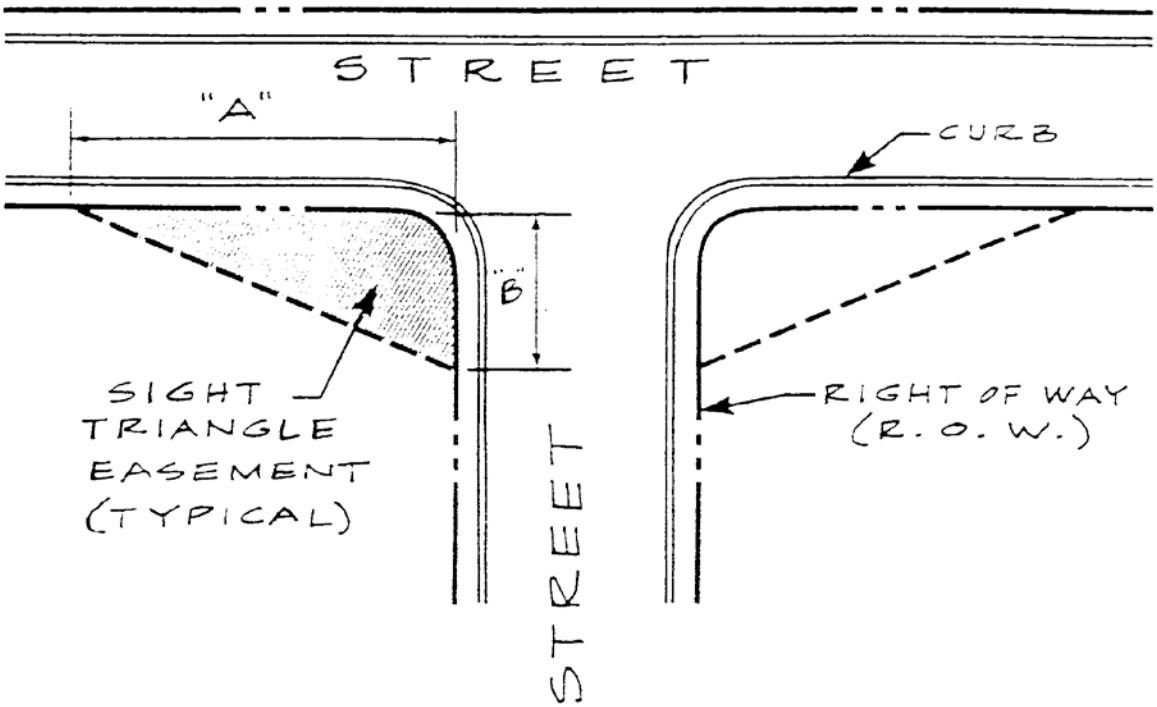
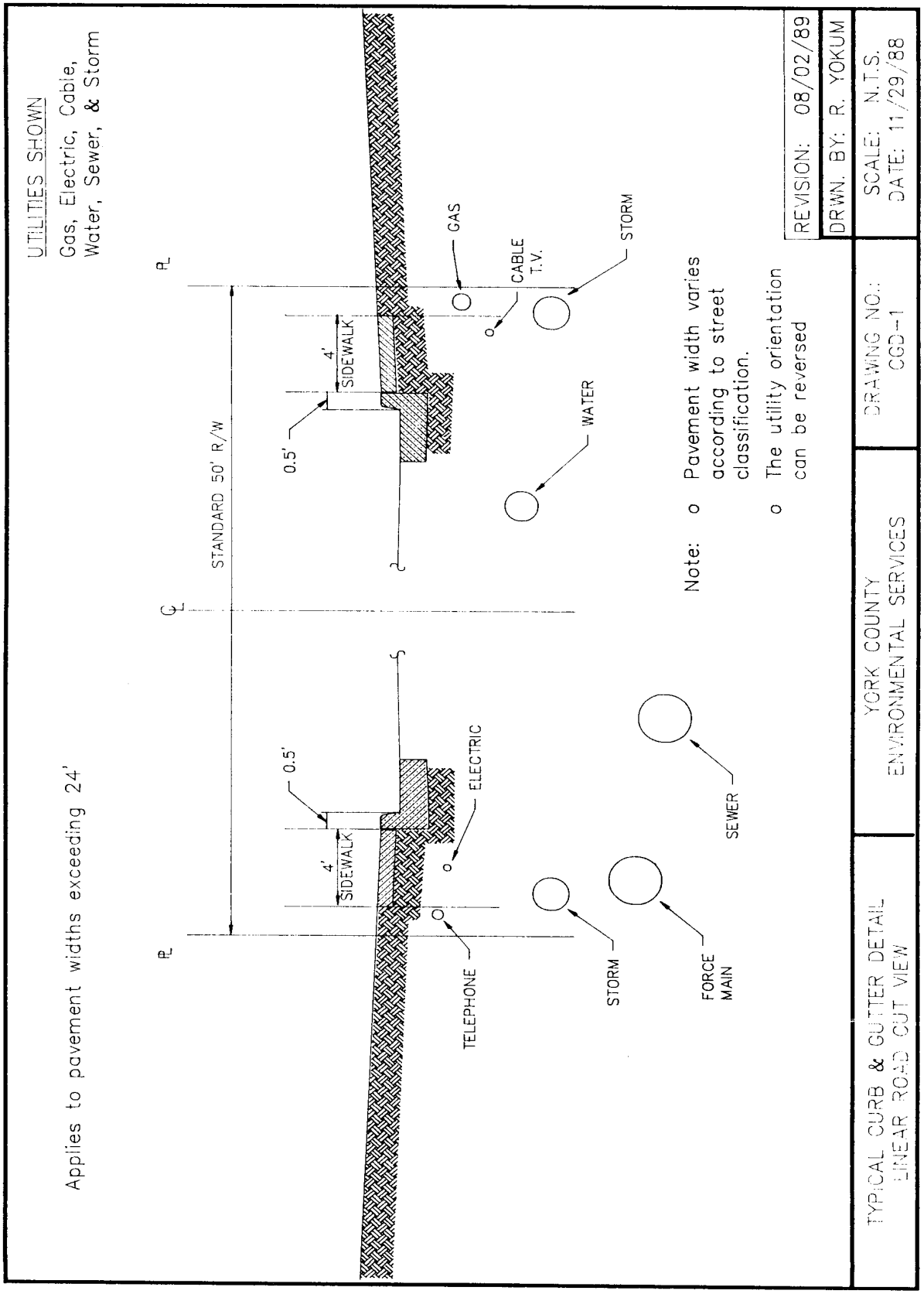
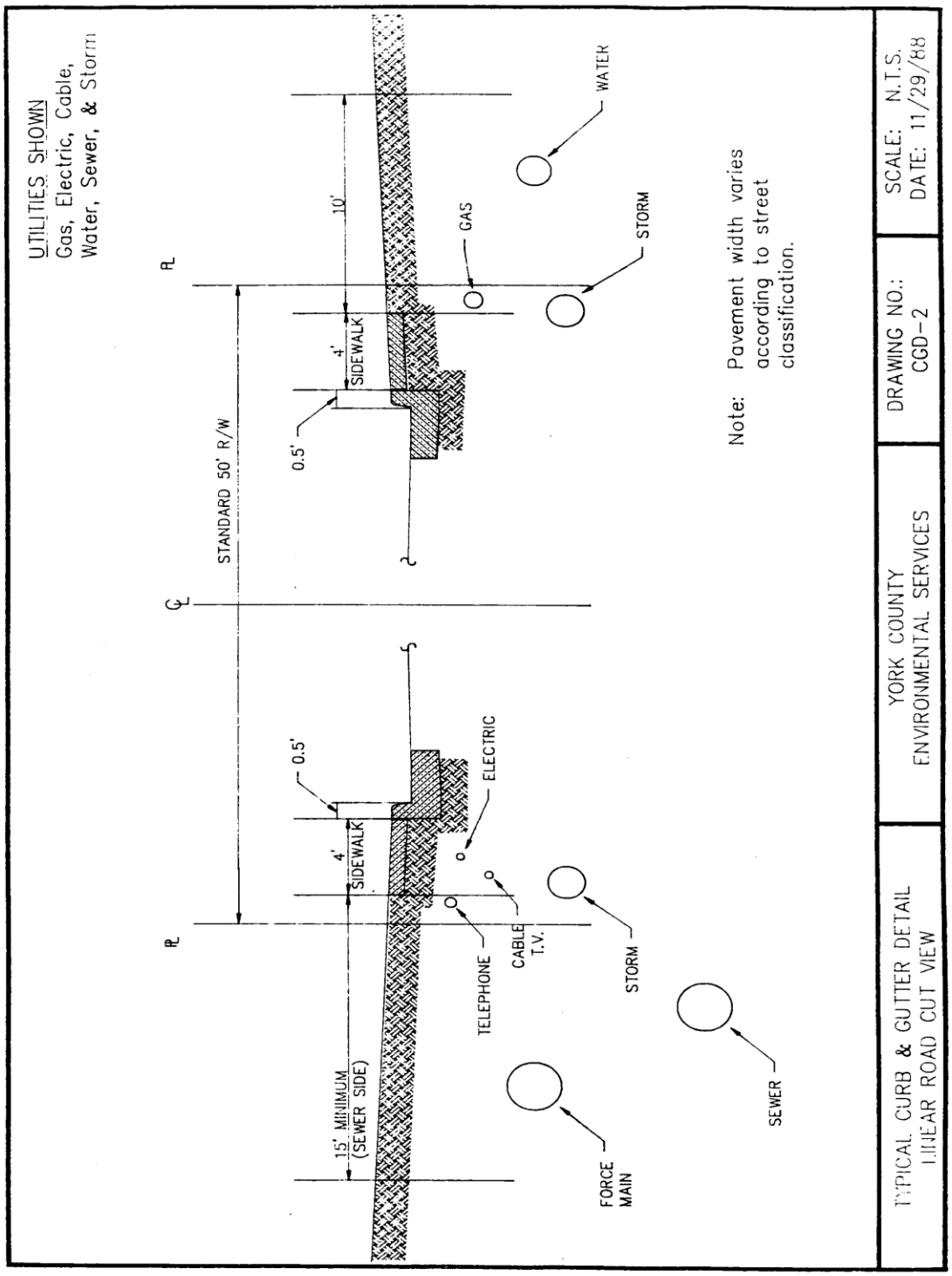
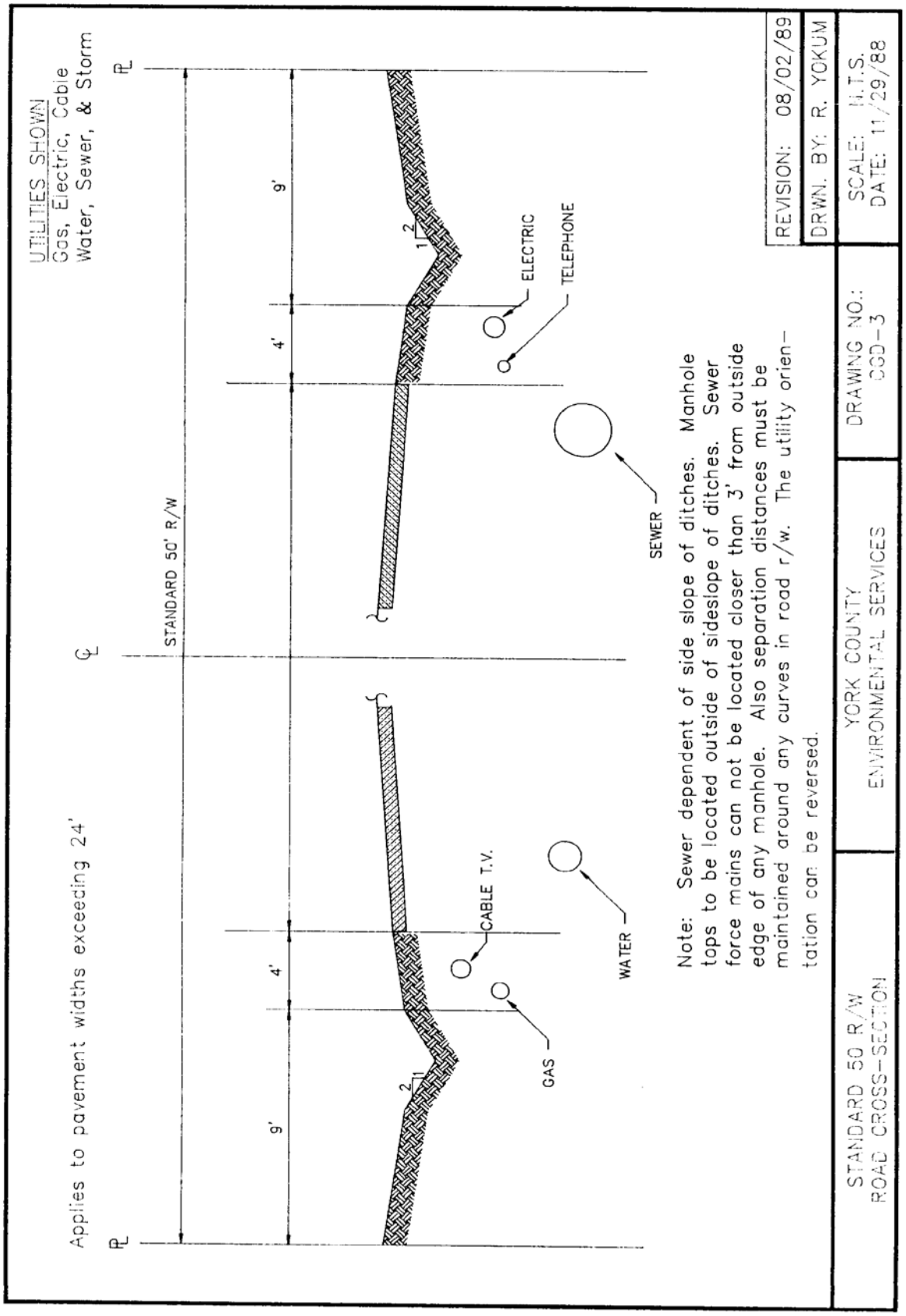
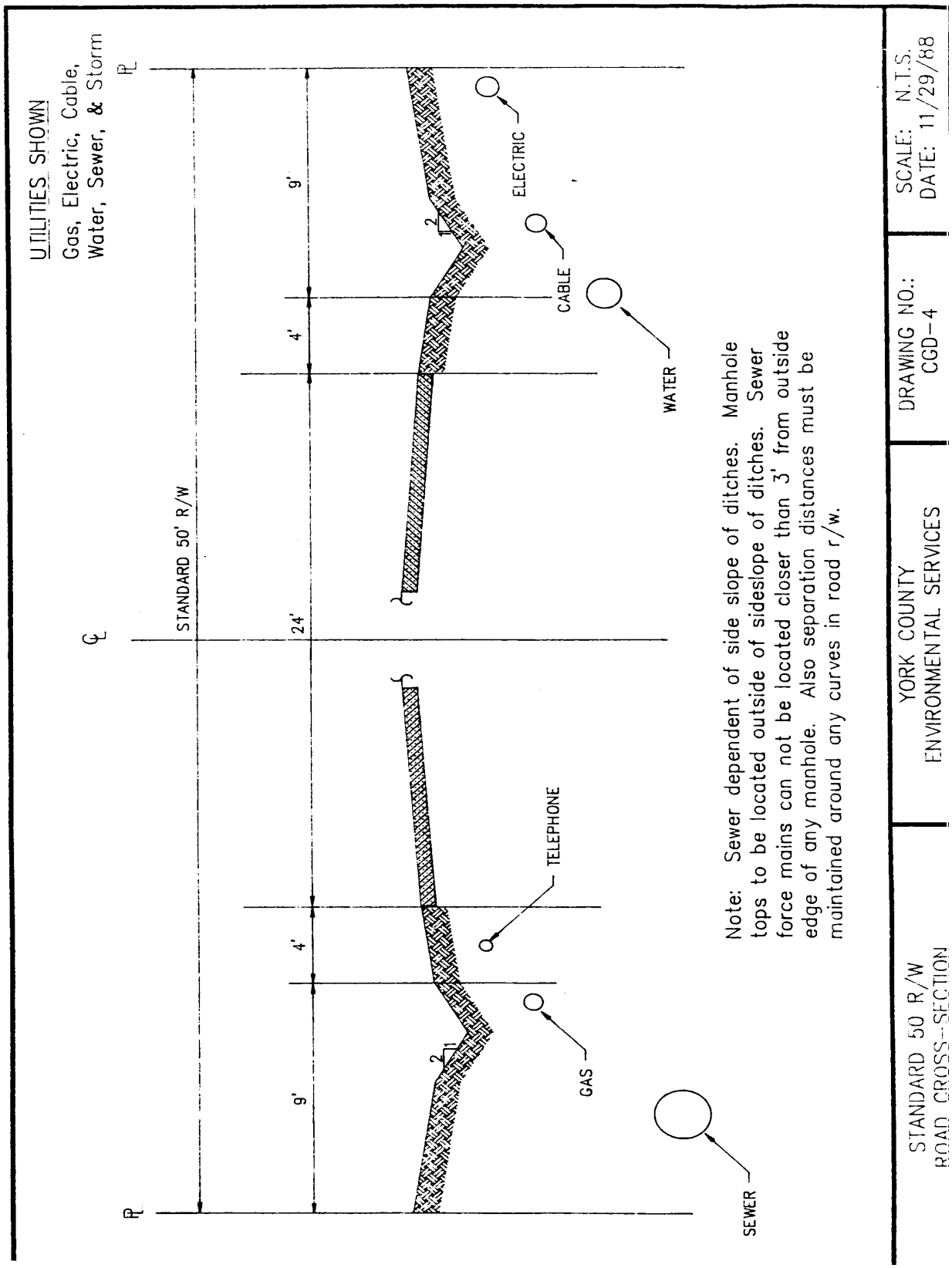


FIGURE VI-A SIGHT TRIANGLES


UTILITIES SHOWN
Gas, Electric, Cable, Water, Sewer, & Storm
Applies to pavement widths exceeding 24'
STANDARD 50' R/W
4' SIDEWALK
0.5'
GAS
CABLE T.V.
STORM
WATER
ELECTRIC
TELEPHONE
SEWER
FORCE MAIN
Note: o Pavement width varies according to street classification.
o The utility orientation can be reversed
REVISION: 08/02/89
DRWN. BY: R. YOKUM
SCALE: N.T.S.
DATE: 11/29/88
DRAWING NO.: CGD-1
YORK COUNTY ENVIRONMENTAL SERVICES
TYPICAL CURB & GUTTER DETAIL LINEAR ROAD CUT VIEW


UTILITIES SHOWN
Gas, Electric, Cable,
Water, Sewer, & Storm
PL
STANDARD 50' R/W
10'
4'
SIDEWALK
0.5'
GAS
WATER
STORM
PL
15' MINIMUM
(SEWER SIDE)
4'
SIDEWALK
0.5'
ELECTRIC
TELEPHONE
CABLE
T.V.
STORM
FORCE
MAIN
SEWER
Note: Pavement width varies according to street classification.
TYPICAL CURB & GUTTER DETAIL
LINEAR ROAD CUT VIEW
YORK COUNTY
ENVIRONMENTAL SERVICES
DRAWING NO.:
CGD-2
SCALE: N.T.S.
DATE: 11/29/88


UTILITIES SHOWN
Gas, Electric, Cable
Water, Sewer, & Storm
Applies to pavement widths exceeding 24'
PL
PL
℄
STANDARD 50' R/W
9'
4'
4'
9'
2
1
2
1
CABLE T.V.
GAS
WATER
ELECTRIC
TELEPHONE
SEWER
Note: Sewer dependent of side slope of ditches. Manhole tops to be located outside of sideslope of ditches. Sewer force mains can not be located closer than 3' from outside edge of any manhole. Also separation distances must be maintained around any curves in road r/w. The utility orientation can be reversed.
REVISION: 08/02/89
DRWN. BY: R. YOKUM
SCALE: N.T.S.
DATE: 11/29/88
DRAWING NO.: CCD-3
YORK COUNTY
ENVIRONMENTAL SERVICES
STANDARD 50 R/W
ROAD CROSS-SECTION


UTILITIES SHOWN
Gas, Electric, Cable, Water, Sewer, & Storm
STANDARD 50' R/W
24'
4'
4'
9'
9'
2
1
2
1
ELECTRIC
CABLE
WATER
TELEPHONE
GAS
SEWER
Note: Sewer dependent of side slope of ditches. Manhole tops to be located outside of sideslope of ditches. Sewer force mains can not be located closer than 3' from outside edge of any manhole. Also separation distances must be maintained around any curves in road r/w.
STANDARD 50 R/W ROAD CROSS-SECTION
YORK COUNTY ENVIRONMENTAL SERVICES
DRAWING NO.: CGD-4
SCALE: N.T.S.
DATE: 11/29/88

LETTERING SIZES

Point Size	Lettering Guide No. (Size)	Sample Letters	Recommended Pen Size
5	T50CL	ABCDEFGHIJKLMNOPQRSTUVWXYZ&abcdefghijklmnopqrstuvwxy	0000
6	T60CL	ABCDEFGHIJKLMNOPQRSTUVWXYZABCDEFGHIJKLMNOPQR	000
8	T80CL	ABCDEFGHIJKLMNOPQRSTUVWXYZABC	00
10	T100CL	ABCDEFGHIJKLMNOPQRSTUVWXYZ	00
12	T120CL	ABCDEFGHIJKLMNOPQRSTUV	0
14	T140CL	ABCDEFGHIJKLMNOPQF	1
18	T175CL	ABCDEFGHIJKLMNC	2
20	T200CL	ABCDEFGHIJKL	3
24	T240CL	ABCDEFGHIJ	4
30	T290CL	ABCDEFGH	5
36	T350CL	ABCDEF	6
42	T425CL	ABCDE	7
48	T500CL	ABCDE	8
64	*T700C	ABC	9
84	*T1000C	ABC	10

LINE WIDTHS

6x0	4x0	3x0	00	0	1	2	2½	3	3½	4	6	7
.13	.18	.25	.30	.35	.50	.60	.70	.80	1.00	1.20	1.40	2.00
.005 in	.007 in	.010 in	.012 in	.014 in	.020 in	.024 in	.028 in	.031 in	.039 in	.047 in	.055 in	.079 in
.13 mm	.18 mm	.25 mm	.30 mm	.35 mm	.50 mm	.60 mm	.70 mm	.80 mm	1.00 mm	1.20 mm	1.40 mm	2.00 mm

APPENDIX B

COUNTY OF YORK

SUBDIVISION AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20___, by and between _____, (*list full legal names of all owners of record, state of incorporation if incorporated, type of partnership if a partnership, or marital status if individual*) hereinafter referred to as the "Owner," and the COUNTY OF YORK, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County":

WITNESSETH:

WHEREAS, the Owner owns a certain parcel of land located in the County, hereinafter referred to as the "Property," having acquired the same by instrument(s) of record in the Clerk's Office of the Circuit Court of York County, Virginia, in Deed Book(s) ___, page(s) _____; and

WHEREAS, the Property is being subdivided by the Owner into the subdivision known as "_____," and the Owner has caused a plat of subdivision, dated _____, 20___, to be prepared by_____, which plat the Owner desires to admit to record in the Clerk's Office of the Circuit Court for the County of York, Virginia, hereinafter referred to as the "Plat"; and

WHEREAS, the Owner agrees to construct on or before the _____ day of _____, 20____, all physical improvements, hereinafter referred to as the "Improvements", shown on the development plans labeled "_____", dated_____, and approved by the County on _____, and such other plans and specifications for development of the subdivision approved by the County, all of which documents are on file in the County's Department of Environmental and Development Services, are incorporated by reference, and are hereinafter collectively referred to as the "Plans"; and

WHEREAS, the Owner has submitted to the County herewith (circle one of the following) sufficient letter of credit, cash, or a certified check, in the amount of $_____, hereinafter referred to as the "Surety," securing the timely construction and completion of the Improvements and performance of the terms and conditions of this Agreement; and

WHEREAS, the County has agreed that it will approve the final plat of said subdivision and authorize its recordation upon the execution of this Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The County agrees that, upon proper execution of this Agreement by the Owner and receipt of the Surety and receipt of the deeds described in Paragraph 8 below, it will approve the Plat for recordation. If the Surety is a letter of credit, it must be in the form attached as Exhibit A and completed in conformance with the instructions attached thereto, approved by the County Attorney as to form, content and issuing institution, and acceptable as to amount, effective period, and otherwise to the County Administrator. Letters of credit shall be in effect for a minimum period of sixty (60) days beyond the date for completion of the Improvements.

2. The Owner agrees that the Owner will, without cost to the County, on or before the _____ day of _____, 20___, construct and complete the Improvements to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Improvements, including, but without limitation, the Virginia Department of Transportation.

3. The County may enter upon the Property to complete the Improvements and may draw on the Surety in the following events:

   a. The Owner fails to complete the Improvements by the date specified in paragraph 2 above.

   b. The Owner fails to complete by the date specified in paragraph 2 above the Improvements to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Improvements, including but without limitation, the Virginia Department of Transportation.

   c. The Owner fails to commence construction of the Improvements at least ____ days prior to the date specified in paragraph 2 above.

   d. The insolvency of, appointment of a receiver for, or the filing of a voluntary or involuntary petition in bankruptcy against or by the Owner.

   e. The commencement of a foreclosure proceeding of a lien against the Property or its conveyance in lieu of foreclosure.

   f. Owner breaches any of the terms and conditions of this Agreement.

4. In the event that the County draws on the Surety, it may use such funds to complete the Improvements or cause them to be completed. The Owner shall be liable to the County for any and all costs of completing the Improvements which shall be in excess of the Surety. It is the purpose and intent of the parties that the amount of the Surety shall have been determined to be sufficient to defray not only the anticipated cost of completing or having completed the Improvements but also unanticipated cost overruns, the cost incurred by the County in drawing on the Surety, an administrative fee in the amount of $5,000.00, or five (5) percent of the amount of the cost of completing the Improvements, whichever sum is greater, and any and all other reasonable costs which the County has incurred or may conclude, in its sole discretion, are to be incurred. The Owner hereby acknowledges that an administrative fee in the above amount is reasonable compensation to the County for its costs in drawing on the Surety and, when necessary, causing the Improvements to be completed.
   The Owner acknowledges and agrees that the County is under no obligation to give any notice to the Owner of its intent to draw on the Surety in any of the events specified in this Agreement.

5. The County shall, upon drawing on the Surety, deposit the same in an interest-bearing account to the extent not needed to cover expenditures made or reasonably anticipated to be made in the near future, but the County shall have no responsibility to deposit or maintain any of such funds in an account at the maximum interest available. Upon completion of the Improvements, as determined by the County, and payment of all expenses incurred by the County in connection therewith, any unexpended funds, including any interest earned thereon, shall be returned to the Owner.

6. The County shall not be liable to the Owner or to any third party for the manner in which the Improvements are completed, any delay in effecting completion, the fact that the cost of completion is in excess of or less than the amount made available by drawing on the Surety or any part thereof, or that the County has drawn down the entire amount of the Surety even though it subsequently develops that the entire amount was not required to carry out the provisions of this Agreement.

7. The Owner acknowledges that the County is under no obligation to extend the time herein provided for completion of the Improvements by the Owner. However, in the event that the County unilaterally agrees in writing to do so, such writing shall, without more and without formal execution of any other agreement by the parties, constitute such an extension, and all of the terms of this Agreement shall continue in effect for the duration of such extension insofar as they are not inconsistent with the terms of the extension; provided, however, that no extension shall be effective until or unless the Owner furnishes to the County a new or amended Surety acceptable to the County if requested by the County. The County may require that the amount of the Surety be increased if an extension is permitted.

8. The Owner agrees to execute and to deliver to the County a deed of easement, approved as to form by the County Attorney, conveying to the County those easements identified on the Plat as easements running to the County. The Owner also agrees to execute and to deliver to the County a deed, approved as to form by the County Attorney, conveying fee simple title, with general warranty, to the County those areas, such as pump station sites or well lots, that are to be conveyed to the County, and to provide the County at Owners' expense an owner's title insurance policy issued by a company acceptable to the County Attorney, containing no exceptions as to title which are not acceptable to the County Attorney, and in such amount as may be determined reasonable and appropriate by the County Administrator.

9. It is mutually understood and agreed that if the Owner shall faithfully execute all requirements of this Agreement and all relevant laws and regulations, and shall indemnify, protect and save the County, its officers, agents and employees harmless from all loss, damage, expense or cost by reason of any claim made or suit or action instituted against the County, its officers, agents or employees on account of or in consequence of any breach on the part of the Owner, all of which the Owner hereby covenants to do, then the aforementioned Surety shall be released by the County to the Owner; provided, however, that release of the Surety shall not in any way or to any extent release, diminish or otherwise reduce any obligation or liability of the Owner provided in this Agreement.

10. The Owner does further hereby agree to indemnify, protect and save the County, its officers, agents, and employees harmless from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the Plans and the Plat until such time as the said streets, utilities and public easements shall be accepted as a part of the County's systems, or those of its agencies, or the State System of Secondary Highways, as the case may be.

11. It is mutually understood and agreed that approval of the Plat shall not, by such approval alone, be deemed to be an acceptance by the County or other applicable agency of any street, alley, public space, sewer or other physical improvements shown on the Plat or the Plans for maintenance, repair or operation thereof, and that the Owner shall be fully responsible therefor and assume all of the risks and liabilities therefor, until such time as the County or other applicable agency has formally accepted them.

12. Upon completion of the Improvements, other than public roads, the Owner shall apply to the Subdivision Agent for final inspection of them and approval for acceptance. After approval of the Improvements by the Agent, Surety shall be maintained for an additional period of one year in the amount of five (5) percent of the cost of the Improvements, other than public roads or any other Improvement for which the materials or workmanship are otherwise guaranteed for a period of at least one year. During this one year period, Owner shall correct any defects in materials or workmanship in the installation of the Improvements. In the event Owner fails to do so after being requested to do so by the County, the County may draw on the Surety in order to affect such corrections.

13. The Owner shall, with regard to any Improvement to be conveyed to the County or any agency thereof:

    a. When requested by the County, furnish the County permanent, blackline, reproducible "as built" drawings of such Improvement on 0.003 inch polyester film, in a form satisfactory to the County; and

    b. Notify the Subdivision Agent prior to the conduct of any required test or final inspections of the Improvement; and

    c. Furnish, through Owner's engineer, test reports prepared by an independent testing laboratory in accordance with the ACI Code for any structural concrete

installed in the subdivision, and furnish a manufacturer's certification that all pipe installed in the subdivision meets applicable ASTM specifications; and

d. Be responsible for and bear all costs imposed upon the County by the Virginia Department of Transportation for inspections and/or testing of any roadway, drainageway or other facility shown on the Plans to be accepted by such Department.

14. The Owner warrants that there are no deeds of trust of record pertaining to the Property other than the ones identified below:

Deed of Trust	Amount of Note Holder	Date of Deed of Trust	List all Trustees	Deed Book, Page
1.				
2.				
3.				

15. The Owner shall be entitled to periodic partial and final complete release of the Surety pursuant to and if Owner complies with provisions of § 15.2-2245, Code of Virginia (1950), as amended, and, in the case of a partial release, furnishes the County with new Surety in the reduced amount, in the case of a bond.

16. This Agreement shall be binding upon the Owner and the Owner's successors and assigns.

17. Owner agrees, upon notification in writing by the County at any time after recordation of the Plat, that if an error has been discovered in such Plat, to record, at Owner's expense, an amended or corrected Plat, or other document acceptable to the County, to correct the error.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals:

OWNER:

INDIVIDUAL OR INDIVIDUALS

_____(SEAL)

_____(SEAL)

CORPORATION

Attest:

By: _____(SEAL)
President (attach copy of corporate resolution authorizing execution)

_____
Secretary

PARTNERSHIP

By: _____(SEAL)
General Partner

****

Approved as to form:

_____
County Attorney

COUNTY OF YORK, Virginia

By:_____
County Administrator

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Secondary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

(PUT ON BANK LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT NO. (1)

_____(2)_____

County of York
c/o Mr. Neil A. Morgan
County Administrator
P. O. Box 532
Yorktown, Virginia 23690

Re: _____(3)_____ (13) _____

Gentlemen:

We hereby establish our Irrevocable Letter of Credit No. __(1)__ in your favor, for the account of _____(3)_____, available by your drafts drawn at sight on us up to the aggregate amount of _____(4)_____, each such draft accompanied by the following document:

Your written statement certifying that _____(3)_____ has defaulted in the performance of the terms and conditions of ____(5)____ Agreement with you, dated the __(6)__ day of __(6)__, 20__(6)__, and that you are, in consequence, entitled to the amount of the accompanying draft.

All drafts drawn under this letter of credit must be marked "Drawn under __(7)__Letter of Credit No. __(1)__ dated __(2)__."

This credit is valid until _____(8)_____ and drafts drawn hereunder, if accompanied by document as specified above, will be honored if presented on or before that date to _____(9)_____ at___ __(10)_____ or, if said bank is not doing business at that address, then to any other address or location of said bank or its successor.

Except as otherwise expressly stated herein, this credit is subject to the "Uniform Customs and Practice for Documentary Credits," fixed by International Chamber of Commerce Publication No. 400, 1983 revision.

Very truly yours,

_____(7)_____

By:_____(11)_____

_____(12)_____

(1) Number assigned to letter of credit by bank.

(2) Date issued.

(3) Name of person, corporation, or partnership submitting letter of credit.

(4) Amount of letter of credit written in words and numerals; i.e., fifty thousand and no/100 dollars ($50,000.00).

(5) Insert "his," "her," "its" or "their," as appropriate.

(6) Date shown on agreement.

(7) Name of bank.

(8) Expiration date of letter of credit.

(9) Name and address of bank.

(10) Address of bank or branch thereof where letter of credit is to be presented. No letter of credit will be acceptable unless it may be presented at a bank office in York County, Gloucester County, James City County, or in the City of Newport News, Hampton, Poquoson, Williamsburg, Norfolk, Virginia Beach, Chesapeake, or Richmond.

(11) Signature of authorized officer of bank.

(12) Title of authorized officer of bank.

(13) Name of project.

CODE OF THE COUNTY OF YORK

Chapter 21

TAXATION*

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ARTICLE I. IN GENERAL

Sec. 21-1. Exemption of household goods and personal effects.

(a) The following household goods and personal effects shall be exempt from taxation:

(1) Bicycles.

(2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.

(3) Pianos, organs, phonographs and record players, and records to be used therewith, and all other musical instruments of whatever kind, radio and television instruments and equipment.

(4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art.

(5) Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.

(6) Sporting and photographic equipment.

(7) Clothing and objects of apparel.

(8) Antique motor vehicles as defined in Code of Virginia § 46.2-100 which may not be used for general transportation purposes.

(9) All-terrain vehicles, mopeds, and off-road motorcycles as defined in Code of Virginia § 46.2-100.

(10) All other tangible personal property used by an individual or a family or household incident to maintaining an abode.

(b) The classifications above set forth shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

(c) Notwithstanding any provision set forth above, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located. For purposes of this subsection, “household appliances” shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

(Ord. No. 15-10, 9/15/15)

Sec. 21-2. Exemption of certified pollution control equipment and facilities.

(a) For tax years beginning on or after January 1, 2011, certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property, and shall be exempt from local taxation.

(b) As used in this section, the term “certified pollution control equipment and facilities” shall be deemed to mean any property, including real or personal property, equipment, facilities or devices used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the commonwealth and which property the state certifying authority having jurisdiction with respect to such property has certified

to the state department of taxation as having been constructed, reconstructed, erected or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. For solar photovoltaic (electric energy) systems, this exemption applies only to projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity. Such property shall not include the land on which such equipment or facilities are located. As used in this section, the term "state certifying authority" shall be deemed to mean the State Water Control Board, for water pollution, the State Air Pollution Control Board, for air pollution, the Department of Mines, Minerals and Energy, for coal, oil, and gas production; and the Virginia Waste Management Board, for waste disposal facilities, landfill gas production facilities, and natural gas recovery from waste facilities, and shall include any interstate agency authorized to act in a place of a certifying authority of the state.

(c) For tax years prior to January 1, 2011, certified pollution control equipment and facilities shall be taxed in accordance with ordinances then in effect.

(Ord. No. 06-12, 6/27/06; Ord. No. 15-10, 9/15/15)

Sec. 21-2.1. Tax due dates.

The tax levied on real estate situated in the county shall be due and payable in two (2) equal installments, one installment being due and payable on or before June twenty-fifth of the taxable year and the second or remaining installment due and payable on or before December fifth of the taxable year.

(Ord. No. O13-3, 3/19/13)

Sec. 21.2.2. Personal property and business machinery and tools tax due dates.

The tax levied on tangible personal property and business machinery and tools shall be due and payable in two (2) equal installments, one installment being due and payable on or before June twenty-fifth of the tax year and the second or remaining installment due and payable on or before December fifth of the taxable year.

(Ord. No. O97-28, 10/1/97--effective January 1, 1998; Ord. No. O13-3, 3/19/13)

Sec. 21-3. Penalty and interest for failure to pay taxes by due date.

Any person failing to pay any county real estate tax or tangible personal property tax or business machinery and tools tax or levy on or before either of its two (2) installment due dates, or failing to pay any other county levy on or before its due date, or if the due date is a Saturday, Sunday or legal holiday, then by the first day thereafter which is not a Saturday, a Sunday or a legal holiday, shall incur a penalty thereon in accordance with the following schedule:

(a) for any first half year installment due on June 25, 2% of the tax due if paid no later than July 20

(b) in all other cases, 2% of the tax due if paid no later than the end of the month in which the tax is due

(c) if paid later than the times specified in (a) and (b) above, as applicable, then as follows:

Amount of Tax Due	Penalty Equals
$100.00 or more	10% of tax due
$10.00 to $99.00	$10.00

Less than $10.00	Amount of tax due

Such penalty shall be added to the amount of the taxes or levies due from such taxpayer, and, when collected by the treasurer, shall be accounted for in his settlements. In addition thereto, interest on the total amount due, at the rate of ten percent (10%) per year, is hereby imposed and shall commence on the first day following the day such taxes or levies are due.
Ord. No. O97-28, 10/1/97; Ord. No. O13-3, 3/19/13; Ord. No. O16-6, 6/21/16)

Sec. 21-4. Penalty for late filing of return of business tangible personal property and machinery and tools and manufactured homes (mobile homes).

There is hereby imposed each and every year a penalty for failure to file on or before March 1 of any such year or if March 1 shall be a Saturday, Sunday or legal holiday, then by the first day thereafter which is not a Saturday, a Sunday or a legal holiday, the required return on tangible personal property, business tangible personal property, machinery and tools and manufactured homes, which shall be assessed and shall become a part of the tax in accordance with the following schedule:

Amount of Tax Due	*Penalty Equals*
$100.00 or more	10% of tax due
$10.00 to $99.00	$10.00
Less than $10.00	Amount of tax due

Such penalty shall be added to the amount of the taxes or levies due from such taxpayer, and, when collected by the treasurer, shall be accounted for in his settlements.
(Ord. No. O97-28, 10/1/97; Ord. No. 07-19, 10/16/07; Ord. No. O13-3, 3/19/13)

Sec. 21-5. Waiver of penalty and interest.

The provisions of sections 21-3 and 21-4 notwithstanding, the commissioner of the revenue may waive the penalty provided in section 21-4 of this Code, and the treasurer may waive the interest provided in section 21-3 of this Code if the failure to file a return or to pay a tax, as the case may be, was not in any way the fault of the taxpayer, and the commissioner of the revenue and the treasurer are hereby empowered to make such determination.

Sec. 21-6. Extension of time for filing returns.

The provisions of section 21-4 notwithstanding, the commissioner of the revenue is hereby empowered to grant extensions of time, not exceeding ninety (90) days, for filing returns on tangible personal property, business tangible personal property, machinery and tools or manufactured homes, whenever in his opinion good cause exists. No such extension shall be granted except upon written request of the taxpayer, received by the commissioner of the revenue on or before March 1 of the applicable year, or by the end of the applicable filing period set forth in County Code Section 21-4 or the first day thereafter which is not a Saturday, a Sunday or a legal holiday, stating the reason for the request. The commissioner of the revenue shall notify the taxpayer of his granting or refusal of the request within ten (10) days after receipt thereof.
(Ord. No. O97-28, 10/1/97; Ord. No. 07-19, 10/16/07; Ord. No. O13-3, 3/19/13)

Sec. 21-7. Assessment of delinquent taxpayers for administrative costs.

In the event that the treasurer shall have notified any taxpayer of a delinquency in any tax or other charge as provided in section 58.1-3919, Code of Virginia, then in addition to all taxes, penalties and interest due, such taxpayer shall pay an administrative fee as provided in section 58.1-3958, Code of Virginia, to cover the cost

of collection in the following amount:

(a) Thirty dollars ($30.00) if the total amount due is collected thirty (30) or more days after notice of such delinquent taxes or charges but prior to the taking of any judgment with respect to such delinquent taxes or changes; or

(b) Thirty-five dollars ($35.00) if the total amount due is collected subsequent to judgment.
(Ord. No. 03-20, 6/17/03)

Section 21-7.1. Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment.

New buildings or structures shall be assessed, whether entirely finished or not, at their actual value on January 1 of each year. New buildings or structures shall be assessed at their full value when substantially completed and fit for occupancy if so completed or fit for use and occupancy prior to November 1 of the tax year. The commissioner of the revenue shall enter in the books the fair market value of such buildings or structures; provided, that no partial assessment for newly completed buildings or structures shall become effective until information as to date and amount of assessment is recorded in the treasurer's office and made available for public inspection. The tax imposed shall be computed in accordance with section 58.1-3292, Code of Virginia. With respect to any assessment made under this section after September 1 of any year, the penalty for nonpayment by December 5 as set forth in section 21-3 of this chapter shall be extended to February 5 of the succeeding year.

Sec. 21-7.2. Reports of certain delinquent taxes.

If the treasurer shall not have obtained a judgment for any unpaid transient occupancy tax assessed by article VIII of this chapter, any short-term rental tax assessed by article IX of this chapter, or any tax on prepared food and beverages assessed by article X of this chapter, within three (3) months of such tax being due and payable, the treasurer shall transmit a report of such delinquency to the county attorney.

Sec. 21-7.3. Administrative refunds.

Upon application by a taxpayer, if the commissioner of revenue is satisfied that he or she has erroneously assessed any tax, and the assessment has been paid, the treasurer may, pursuant to the provisions of §58.1-3981, Code of Virginia, refund such portion of the tax, together with any interest and penalty thereon, erroneously assessed, up to $2,500, with the consent of and upon the written certification of the commissioner of revenue and county attorney that such tax was erroneously assessed. Such refunds shall be subject to such limitations as may otherwise be established by law. Interest shall be paid on such refunds as required by Sec. 58.1-3981 Code of Virginia except that no interest shall be paid on any refund if the amount of the refund is ten dollars ($10.00) or less, or if the refund is the result of proration pursuant to section 21-7.4 of this chapter. No refund in excess of $2,500 shall be issued without the approval of the Board of Supervisors. The treasurer shall deduct from any such refund any amount owed by the applicant to the County, and shall apply such amount to payment of the tax owed.
(Ord. No. O99-10, 6/2/99—effective July 1, 1999; Ord. No. 00-7, 6/20/00)

Sec. 21-7.4. Proration of personal property tax. (To take effect January 1, 1997)

(a) The tangible personal property tax shall be levied upon motor vehicles, trailers, semi-trailers, and boats which have acquired a situs within the County after January 1 of any tax year for the balance of the tax year. Such tax shall be prorated on a monthly basis. The tax shall be due and owing within thirty (30) days of the billing as indicated on the bill from the treasurer. Any person failing to pay any taxes on or before the due date shall incur penalties and interest as set forth in section 21-3 of this chapter.

(b) When any person acquires a motor vehicle, trailer, semi-trailer, or boat with situs in the county after January 1 or situs day, the tax shall be assessed for the portion of the tax year during which the new owner owns the motor vehicle. trailer, semitrailer, or boat and it has a situs in the County.

(c) When any motor vehicle, trailer, semi-trailer, or boat loses its situs after January 1 or after the day on which it acquired situs ("situs day"), the tax shall be relieved and the appropriate amount of tax, which shall be prorated on a monthly basis, shall be refunded if such tax has already been paid. No refund shall be made if the motor vehicle, trailer, semi-trailer or boat acquires a situs within the Commonwealth in a locality which does not prorate a personal property tax on such property.

(d) When any person sells or otherwise transfers title to a motor vehicle, trailer, semi-trailer, or boat with a situs in the County after January 1 or situs day, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be refunded.

(e) For the purposes of proration under section 21-7.4(a) through (d), a period of more than one-half of a month shall be counted as a full month and a period of less than one-half of a month shall not be counted.

(f) Any refund shall be made within thirty (30) days of the date the County determines that the tax is properly relieved. Any refund due under section 21-7.4(c) and (d) may be credited against the tax due on any tax owed by the taxpayer. No refund of less than five dollars ($5.00) shall be issued to a taxpayer, unless specifically requested by the taxpayer.

(g) Any person who moves from a non-prorating locality to the County in a single tax year shall be entitled to a personal property tax credit in the County if (i) the person was liable for personal property taxes on a motor vehicle, trailer, semitrailer, or boat and has paid those taxes to a non-prorating locality and (ii) the owner replaces for any reason the original vehicle, trailer, semi-trailer, or boat upon which taxes are due to the County for the same tax year. In such case, the County shall provide a credit against the total tax paid to the non-prorating locality for the period of time commencing with the disposition of the original vehicle, trailer, semi-trailer, or boat and continuing through the close of the tax year in which the owner incurred tax liability to the non-prorating locality for the original vehicle, trailer, semi-trailer, or boat.

(Ord. No. O13-3, 3/19/13)

Sec. 21-7.5. Filing of returns.

(a) Returns for tangible personal property, business tangible personal property, machinery and tools, or manufactured homes with a situs in the county as of January 1, shall be filed with the commissioner of the revenue no later than March 1 of the tax year in accordance with the following provisions:

(1) Tangible personal property, business personal property, manufactured homes, or machinery and tools with a situs in the County as of January 1 shall be filed with the commissioner of the revenue no later than March 1 of the tax year, with the exception of motor vehicles, trailers, semi-trailers, boats, or watercraft for which a return has previously been filed.

(2) Notwithstanding the provisions of this section, any person who has previously filed a property return on any motor vehicle, trailer, semi-trailers, boat or watercraft, for which there has been no change in situs or status as hereinafter set forth in this section shall not be required to file another personal property tax return on such property. The assessment and taxation of property shall be based on the most recent tax return previously filed with the County.

(3) Furthermore, a taxpayer who failed to file a personal property tax return on such property in any previous tax year, but who pays a personal property tax for such tax year based on information supplied to the taxpayer by the commissioner of the revenue, shall be deemed for purpose of this paragraph to have filed a return on such property for subsequent tax years.

(4) The registered owner of any motor vehicle, trailer, semi-trailer or boat who moves into the County shall file a personal property return within sixty (60) days of the establishment of a situs for tax purposes within the County.

(5) Every purchaser of a new or used motor vehicle, trailer, semi-trailer or boat which normally will be garaged, stored or parked in the County shall have sixty (60) days from the date of purchase to file a personal property tax return with the commissioner of the revenue.

(b) Any person who is required to file a return under Sec. 21-7.5(a) and fails to do so by the date provided in this section shall be assessed a penalty in accordance with the schedule set out in Section 21-4.

(c) Notwithstanding the foregoing, the commissioner of the revenue, at his or her option, may waive the requirement for the filing of tax returns for motor vehicles, trailers, semi-trailers, or boats and pursuant to Code of Virginia sections 58.1-3518.1 and 58.1-3519 and assess such property based upon information received from the Virginia Department of Motor Vehicles, the Virginia Department of Game and Inland Fisheries, or other public agency or private entity required by law to report the presence of such property within the county, and the tax shall be assessed and levied on such information. Thereafter, the owner of a motor vehicle, trailer, semi-trailers, boat or watercraft shall notify the commissioner of the revenue within sixty (60) days whenever there is:

(1) A change in the name or address of the person or persons owning or leasing taxable personal property;

(2) A change in the situs of personal property;

(3) Any other change affecting the assessment or levy of the personal property tax on motor vehicles, trailers, semi-trailers or boats for which a re-turn has been filed.

(4) Any change in the use of a vehicle which affects the eligibility requirements for Personal Property Tax Relief.

(Ord. No. 07-19, 10/16/07; Ord. No. O13-3, 3/19/13))

Sec. 21-7.6. Exemptions.

Property shall be exempt from the levy of such tax for any tax year or portion thereof during which the property was legally assessed by another jurisdiction in the Commonwealth and the tax was paid and not refunded in whole or in part.

Sec. 21-7.7. Abatement of levies on buildings razed, destroyed, or damaged by natural or accidental events.

Buildings which are razed, destroyed, or damaged due to a natural or accidental event and through no fault of the owner shall receive an abatement for real estate tax levies computed according to the ratio which the portion of the year the building was fit for use, occupancy, or enjoyment bears to the entire year. No such abatement shall occur unless:

1. The destruction or damage to such building decreases its value by $500 or more;

2. The destruction or damage to such building renders it unfit for use and occupancy for 30 or more days during the year; and

3. The owner of such building makes application for the abatement within six months of the date on which the building was razed, destroyed, or damaged.

(Ord. No. 03-40, 11/18/03)

State law reference – Code of Va., §58.1-3222.

Sec. 21-7.8 Partial exemption for certain rehabilitated or renovated commercial or industrial structures.

(a) Real estate located within the district described below and on which any structure or other improvement no less than twenty years of age has undergone substantial rehabilitation, or renovation (hereinafter, "rehabilitation") for commercial or industrial use, shall be entitled to a partial exemption from the tax on real property, subject to the following terms and conditions. The complete demolition of a structure and its replacement by a new structure shall not constitute "rehabilitation" and shall not qualify for the partial exemption.

(b) Real estate shall be deemed to have been "substantially" rehabilitated when it has been so improved as to increase the value of the structure by no less than 25 percent (25%) of its value prior to the rehabilitation.

(c) The partial exemption shall equal the amount of the difference in the value of the commercial or industrial structure immediately before rehabilitation and immediately after rehabilitation as determined by the

county tax assessor, not to exceed however $500,000 in increased value as so determined. The exemption shall commence upon completion of the rehabilitation, and shall run with the real estate for a period of five years, or until such time as the structure may be demolished, if sooner.

(d) Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided herein.

(e) To be qualified for this partial exemption, the subject real estate must:

(1) be located at least partly within an area the boundaries of which shall be defined as lines located 1,000 feet from the centerline of the right-of-way of Rte. 17 (George Washington Memorial Highway) in the County, and the structure which has been rehabilitated must likewise be located within the boundaries of such area, and

(2) be improved without increasing the total square footage of the structure by more than one hundred percent (100%).

(f) The owner of any real estate meeting the criteria set forth in this section must apply to the county tax assessor for the partial exemption, on forms provided by the assessor, prior to the beginning of the rehabilitation. A fee of $20.00 shall be paid by the owner to the assessor for processing such application. Following submission of the application, the assessor shall cause the fair market value of the structure to be determined as of the date of the application, utilizing customary methods for determining the value of real estate. Such value shall be used to determine whether the rehabilitation results in a substantial renovation as described in subsection (b), above.

(g) An application (or renewed application) for a partial exemption shall expire 18 months after approval of the application unless all contemplated improvements shall have been completed. Thereafter, the owner may renew his application upon payment of such application fee as may then be applicable. Upon an application for renewal, the assessor shall determine the value, as of the date of the renewal application, of the structure as unrehabilitated, and the application shall be conditioned upon an increase in the value of the structure over the value as of the date of the application for the renewal.

(h) In order for the partial exemption for a structure to remain in effect, the structure shall be maintained in compliance with the Uniform Statewide Building Code, including so much of the building maintenance provisions as the County may elect to enact. If, after receiving notice of a violation of this section, the owner of the property fails or refuses to complete the necessary corrections within the time required for such action, or refuses access to the property by inspectors for the purpose of determining continued eligibility under this section, then such eligibility shall terminate.

(Ord. No. 04-4(R-1), 3/16/04)

Sec. 21-7.9 Tax on motor vehicles owned and regularly used by disabled veterans.

(a) In accordance with Code of Virginia section 58.1-3506(A)(19), there is hereby declared to be classed as a separate classification of tangible personal property for purposes of personal property taxation, one motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind, or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of the section, and that his disability is service connected. For the purpose of this section, a person is blind if he meets the provisions of Code of Virginia section 46.2-100.

(b) For the calendar year beginning January 1, 2008, and for each and every calendar year thereafter, unless changed, there shall be, and hereby is, levied a tax on any such vehicle, at the rate of one dollar ($1.00) on every one hundred dollars ($100.00) of the assessed value thereof.

(c) A qualifying veteran may have no more than one motor vehicle taxed pursuant to this section. All other motor vehicles owned by the veteran shall be taxed at the rate established annually for motor vehicles generally.

(Ord. No. 07-8, 7/17/07; Ord. No. 16-12, 11/15/16)

ARTICLE I.5. BIENNIAL ASSESSMENT AND EQUALIZATION REAL ESTATE

Sec. 21-8. Established.

Pursuant to section 58.1-3253, Code of Virginia the biennial assessment of real estate is hereby established in the County of York in lieu of the periodic general reassessments otherwise provided by law.

Sec. 21-9. Implementation.

Such biennial assessment shall be effective for tax years beginning January 1, 1986. All such assessments shall be made at one hundred (100) per centum of fair market value.

Sec. 21-10. Department of real estate assessments.

The department of real estate assessments is hereby established. The office of county assessor is hereby created and shall be filled by a full-time real estate appraiser or assessor certified by the tax commissioner and appointed by the board. He shall carry out all duties relating to biennial assessment of real property for taxation. He shall be directly responsible to the county administrator and serve at the pleasure of the board. The board of supervisors may by resolution fix the amount of his compensation and determine the number and compensation of his assistants and staff.

Sec. 21-11. Completion dates for reassessments.

All such reassessments shall be completed and the requirements of section 58.1-3300, Code of Virginia complied with not later than December 31 of the year of any such reassessment, except that an extension may be granted by the judge of the circuit court of the county for good cause shown, pursuant to section 58.1-3257, Code of Virginia.

Sec. 21-12. Hearings by county assessor.

Whenever there is a reassessment of real estate of any change in the assessed value of any real estate, the county assessor shall give notice and be available to affected property owners as provided in section 58.1-3300, Code of Virginia.

Sec. 21-13. Appraisal records.

All working papers used by the county assessor in arriving at the appraised or assessed value of any property shall be available for inspection by the owner of the property to which they relate but shall remain the property of the county. All property appraisal cards, except as provided in section 58.1-3331, Code of Virginia, shall be open to public inspection during normal office hours.

Sec. 21-14. Permanent board of equalization established.

Pursuant to section 58.1-3373, Code of Virginia, there is hereby established a permanent board of equalization which shall be called the York County Board of Equalization of Real Estate Assessments.

Sec. 21-15. Organization of board.

The board of equalization shall consist of five (5) members appointed by the county circuit court, as provided by section 58.1-3373, Code of Virginia. Each member shall be a resident of York County, a majority of

whom shall be freeholders. At least two of the members shall be commercial or residential real estate appraisers, or other real estate professionals, builders, developers, or legal or financial professionals, and at least one such member shall sit in all cases involving commercial, industrial or multi-family residential property, unless waived by the taxpayer. In order to be eligible for appointment, such members shall attend and participate in the basic course of instruction for assessing officials as required by section 58.1-3374, Code of Virginia. The board shall elect a chairman and a secretary from among its members. In addition, at least once in every four (4) years of service on the board, each member shall take continuing education instruction provided by the Virginia Tax Commissioner pursuant to section 58.1-206, Code of Virginia.
(Ord. No. 03-21, 6/17/03; Ord. No. 09-6, 8/18/09)

Sec. 21-16. Compensation of board members.

Compensation of members of the board of equalization shall be set on a per diem basis by resolution of the board of supervisors and shall be limited to the number of days which in the opinion of the board is sufficient to complete the work of the board of equalization but in no event more than sixty (60) days.

Sec. 21-17. Clerical assistance and expenses.

The board of equalization may employ necessary clerical and other assistants and incur other necessary expenses, all subject, however, to the approval of the board of supervisors.

Sec. 21-18. Hearings of the board of equalization.

The board of equalization shall sit beginning March 1, or the first day thereafter which is not a Saturday, a Sunday or a legal holiday, of each even-numbered year for the purpose of hearing the applications of property owners for correction of their assessment(s). In no event shall such hearings be held earlier than thirty (30) days after the date the county assessor has completed his hearings. The board of equalization shall provide ten (10) days notice, as required by section 58.1-3378 of the Code of Virginia, of the place and time of its sittings to equalize real estate assessments. All property owners wishing to be heard must file an application for hearing on or before February 28 of each such year or within thirty (30) days of the termination of hearings by the county assessor, whichever is later. Forms for such application shall be available at the office of the county assessor and no property owner who fails to meet the filing deadline shall be heard. The board of equalization shall conduct hearings on a continuing basis and conclude its work on or before April 30 of such year. In odd-numbered years, the board of equalization shall meet according to need upon authorization of the board of supervisors. In the event that the circuit court shall grant an extension of time for the completion of reassessments pursuant to Code of Virginia section 58.1-3257 and York County Code section 21-11, all times set out in this section shall automatically be extended likewise.
(Ord. No. 03-41, 12/2/03)

Sec. 21-19. Records of board of equalization.

The board of equalization shall keep written minutes of all meetings, and all working papers and evidence presented shall be properly indexed and filed in the office of the county assessor. All such documents and working papers shall remain the property of the county.

Sec. 21-20. Notices.

All notices shall conform to the requirements of sections 58.1-3330 and 58.1-3378, Code of Virginia, and shall in addition all notices of assessment shall contain all filing deadlines and dates of sitting of the county assessor and the board of equalization.

ARTICLE II. ASSESSMENT OF REAL ESTATE DEVOTED TO AGRICULTURAL, HORTICULTURAL, FOREST OR OPEN SPACE USE

Sec. 21-21. Finding a fact.

The board of supervisors finds that the preservation of real estate devoted to agricultural and horticultural uses within its boundaries is in the public interest and, having heretofore adopted a land use plan (adopted March 4, 1976), hereby ordains that such real estate shall be taxed in accordance with the provisions of article 4 of chapter 32 of title 58.1, Code of Virginia and of this article.
(Ord. No. O98-19, 12/2/98)

Sec. 21-22. Application for classification, assessment, etc.—Generally.

(a) The owner of any real estate meeting the criteria for real estate devoted to agricultural use or real estate devoted to horticultural use set forth in sections 58.1-3230 and 58.1-3233, Code of Virginia may, on or before November first of each year, apply to the county assessor for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use under the procedures set forth in section 58.1-3236, Code of Virginia. Such application shall be on forms provided by the State Department of Taxation and supplied by the county assessor and shall include such additional schedules, photographs and drawings as may be required by the county assessor. A separate application shall be filed for each parcel on the land book.

(b) A new application shall be submitted under this section whenever the use or acreage of such land previously approved changes, except when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment under this article.
(Ord. No. O98-19, 12/2/98)

Sec. 21-23. Application Fee.

There shall accompany each application filed under section 21-22 a fee in accordance with the following schedule:

Range of Acres	***Fee***
5 — 100 acres	**$50.00**
Each additional acre in excess of 100 acres, per acre	**0.20**

Contiguous parcels in the same ownership shall be considered one (1) parcel in determining the fee due under the above schedule.

Sec. 21-24. Annual revalidation of application.

The owner of any real estate which has been approved for special assessment as provided for in this article shall revalidate such application annually if the continuation of such special assessment is desired. Application for such revalidation shall be made with the county assessor on or before November first of the preceding tax year. No fee shall be charged for such revalidation, except that the owner shall, every sixth year from the date of the owner's original application, pay a revalidation fee in the amount equal to the application fee required by section 21-23.

Revalidation forms may be filed after the due date, if filed on or before the effective date of the assessment, on payment of a late filing fee, which shall be either one percent (1%) of the tax to be deferred as a result of the late filing, or the same fee as the revalidation fee, whichever is greater.
(Ord. No. O98-28(R), 12/16/98)

Sec. 21-25. Determination of county assessor.

(a) Promptly upon receipt of any application under this article, the county assessor shall determine whether the subject property meets the criteria for taxation under this article. If the county assessor shall determine that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value.

(b) In determining whether the subject property meets the criteria for "agricultural or horticultural use," the county assessor may request an opinion from the state commissioner of agriculture and consumer services. Upon the refusal of the commissioner of agriculture and consumer services to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the commissioner, the party aggrieved may seek relief from any court of record wherein the real estate in question is located; and in the event that the court finds in his favor it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

(Ord. No. O98-19, 12/2/98)

Sec. 21-26. Land book entries; tax to be extended from use value.

The use value and fair market value of any property qualifying under this article shall be placed on the land book before delivery to the treasurer and the tax for the next succeeding tax year shall be extended from the use value. Property qualifying for taxation at its use value in the categories of real estate devoted to forest use and open space use on the basis of applications filed on or before November 1, 1998, shall be taxed at their fair market value commencing January 1, 2000.

(Ord. No. O98-19, 12/2/98)

Sec. 21-27. Roll-back tax when use or zoning changes.

There is hereby imposed a roll-back tax, in such amount as may be determined under section 58.1-3237, Code of Virginia, upon any property as to which the use changes to a nonqualifying use under this article, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent. Property qualifying for taxation at its use value in the categories of real estate devoted to forest use and open space use on the basis of applications filed on or before November 1, 1998, shall continue to be subject to roll-back taxes until such time as such deferred taxes are no longer owed pursuant to the provisions of section 58.1-3237, Code of Virginia. The owner of any real estate liable for roll-back taxes shall report within sixty (60) days following a change in use or zoning to the county assessor, on such forms as may be prescribed, any such change. The county assessor shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. The owner shall pay the treasurer the roll-back taxes, including interest at the same rate that is set out in section 21-3 for delinquent taxes, within thirty (30) days of the assessment. On failure so to pay by the due date, the treasurer shall impose a penalty and interest in the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with the provisions of section 21-3.

(Ord. No. O98-19, 12/2/98)

NOTE: See §58.1-3241 (7/1/06), Code of Virginia

Sec. 21-28. Misstatements in application filed under article.

Any person making a material misstatement of fact in any application filed pursuant to this article shall be liable for all taxes, in such amounts and at such times as if such property has been assessed on the basis of fair market value as applied to other real estate in the county, together with interest and penalties thereon, and he shall be further assessed with an additional penalty on one hundred percent (100%) of such unpaid taxes.

Sec. 21-29. Application of general tax law.

The provisions of title 58.1, Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this article mutatis mutandis, including, without

limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

Secs. 21-30—21.39. Reserved.

ARTICLE III. REAL ESTATE TAX EXEMPTION FOR ELDERLY AND DISABLED PERSONS

Sec. 21-40. Intent of article.

The intent of this article is to provide for the exemption from taxation of real estate owned by and occupied as the sole dwelling of a person not less than sixty-five (65) years of age or a person determined to be permanently and totally disabled, subject to the restrictions and conditions contained in this article and as authorized by section 58.1-3210 et seq., Code of Virginia.

Sec. 21-41. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Affidavit. The tax exemption affidavit provided for in this article.

Commissioner of the revenue. The commissioner of the revenue of the county or his duly authorized deputies or agents.

County assessor. The county assessor of the county or his duly authorized deputies or agents.

Dwelling. The building or mobile home owned or partially owned by an occupied as the sole residence of the person claiming exemption under this article, including up to ten (10) acres of land on which it is situate. Real property owned and occupied as the sole dwelling of an eligible person shall include real property (i) held by the eligible person alone or in conjunction with their spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and their spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with their spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term “eligible person” does not include any interest held under a leasehold or term of years.

Exemption. Permanent relief from liability for the taxes of the county, according to the provisions of this article.

Mobile home. An industrialized building unit constructed on a chassis for towing to the point of use and designed to be used, without a permanent foundation, for continuous year-round occupancy as a dwelling; or two (2) or more such units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designed for removal to and installation or erection on other sites.

Permanently and totally disabled. Unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person’s life.

Taxable year. The calendar year from January first through December thirty-first for which exemption is claimed under this article.
(Ord. No. 04-32, 12/21/04; Ord. No. 14-14(R), 9/16/14)

Sec. 21-42. Authorized; maximum amount.

Tax exemption is provided for the dwelling of qualified property owners who are not less than sixty-five (65) years of age or who are permanently and totally disabled and who are otherwise eligible according to the provisions of this article. Persons qualifying for exemption are deemed to be bearing an extraordinary tax

burden on the property described in this article, in relation to their income and financial worth. Persons qualifying for and claiming exemption under this article shall be exempt from the amount of taxes assessed against such property, as determined by the following chart:

Total Combined Income as determined Pursuant to section 21-44		***Amount of Exemption***
1 Eligible Owner	**2 or more Eligible Owners**	
Less than $19,550.00	**Less than $23,350.00**	**100%**
$19,550.00 to $29,700.00	**$22,350.00 to $31,567.00**	**An amount not to exceed $600.00**
$29,700.00 to $39,850.00	**$31,567.00 to $40,784.00**	**An amount not to exceed $420.00**
$39,850.00 to $50,000.00	**$40,784.00 to $50,000.00**	**An amount not to exceed $300.00**

(Ord. No. 02-1(R), 1/15/02; Ord. No. 04-1, 2/3/04; Ord. No. 04-32, 12/21/04)

Sec. 21-43. Administration; rules and regulations of county assessor.

The exemption provided for in this article shall be administered by the commissioner of revenue, with assistance from the director of social services, according to the provisions of this article. The commissioner of revenue is authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations as may be reasonable and necessary to determine qualifications for exemption in conformance with the provisions of this article. The commissioner of revenue may require the production of certified tax returns to establish the income or financial worth of any applicant for exemption or may require an affidavit that no such returns are required to be filed by state or federal law, and shall make such further inquiry as may be reasonably necessary to determine qualification for such exemption.
(Ord. No. O98-16, 12/16/98)

Sec. 21-44. General prerequisites to grant.

Exemption shall be granted to eligible persons subject to the following requirements:

(a) A dwelling jointly held by a husband and wife may qualify if either spouse is sixty-five (65) or over or who is permanently and totally disabled.

(b) The dwelling is occupied as the sole residence of the person or person(s) claiming exemption; provided, however, that the residence of persons, who are otherwise qualified for tax exemption under this article, for extended periods of time in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care shall not be construed to mean that the real estate for which exemption is sought has ceased to be the sole dwelling of such persons during extended periods of other residence, unless such real estate is used by or leased to others for consideration.

(c) The eligible person(s) occupying such dwelling and owning title thereto is/are not less than sixty-five (65) years of age on December thirty-first of the year immediately preceding the taxable year or is/are determined to be totally and permanently disabled not later than December thirty-first of the year immediately preceding the taxable year.

(d) The total combined income during the immediately preceding calendar year, from all sources, of the owner of the dwelling living therein and the owner's relatives living in the dwelling does not exceed fifty thousand dollars ($50,000.00); provided, however, that the first ten thousand dollars ($10,000.00) of each relative, other than spouse, of the owner who is living in the dwelling, and the

first ten thousand dollars ($10,000.00), or any portion thereof, of any income received by an owner who is permanently disabled, and the income of relatives of the owner living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated, or not, shall not be included in such total.

(e) The net combined financial worth, including equitable interests, as of December thirty-first of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding ten (10) acres, upon which it is situated, does not exceed two hundred thousand dollars ($200,000.00). The value of furnishings, such as furniture, household appliances and other items typically used in a home, shall also be excluded from the net combined financial worth of such owner.

(Ord. No. 02-1(R), 1/15/02; Ord. No. 04-1, 2/3/04; Ord. No. 04-32, 12/21/04; Ord. No. 14-14(R), 9/16/14)

Sec. 21-45. Claimant's affidavit and certificate of disability; county assessor's certification to treasurer.

(a) The person or persons claiming exemption shall file annually, with the commissioner of revenue, a tax exemption affidavit. Such affidavit shall be filed after January first and not later than April first of each year, except that the commissioner of revenue may accept the first such affidavit on or before April thirtieth or the first day thereafter which is not a Saturday, Sunday or legal holiday, and may accept within such time the affidavit for any year filed by a person who the commissioner of revenue finds was prevented by genuine hardship from making such filing on or before April first of that year. Such affidavit shall be completed on forms provided by the county and shall set forth, in a manner prescribed by the commissioner of revenue, the names of the related persons occupying such property, the net combined financial worth, including equitable interests, and the total combined income of such persons as specified in section 21-44. In lieu of the annual filing of such an affidavit, the person or persons having filed an initial affidavit shall only be required to refile such an affidavit every three (3) years if during each of the two (2) intervening years the taxpayer filed a certification on a form provided by the county certifying that no information contained on the last preceding affidavit has changed to violate the limitations and conditions set out in this article.

(b) If the person or persons claiming the exemption is under sixty-five (65) years of age, such affidavit shall have attached thereto a certification by the department of veterans affairs or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors who are either licensed to practice medicine in Virginia or are military officers on active duty who practice medicine with the United States Armed Forces to the effect that such person is permanently and totally disabled, as defined in section 21-41 of this article. The affidavit of at least one (1) of such doctors shall be based upon a physical examination of such person by such doctor. The affidavit of one (1) of such doctors may be based upon medical information contained in the records of the Civil service commission, which is relevant to the standards for determining permanent and total disability, as defined in section 21-41 of this article.

(Ord. No. O98-16, 12/16/98)

Sec. 21-46. Effective date; change in circumstances.

(a) Notwithstanding the provisions of section 21-44, changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed under this article, and having the effect of exceeding or violating the limitations and conditions set forth in this article, shall nullify any exemption for the remainder of the current year and the taxable year immediately following, and such exemption shall only be reinstated upon requalification in accordance with the limitations and conditions set forth in this article.

(b) A change in ownership to a spouse, when such change has resulted solely from the death of the qualifying individual, or a sale of such property, shall result in a prorated exemption for the then-current taxable year. The proceeds of the sale which would result in the prorated exemption shall not be included in the computation of net worth or income as provided in subsection (a). Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the year such property was property eligible for such exemption is the numerator and the number twelve (12) is the denominator.

Sec. 21-47. False claims.

Any person who falsely claims an exemption or violates any provisions of this article shall be guilty of a Class 1 misdemeanor.

Secs. 21-48—21-57. Reserved.

ARTICLE IV. RETAIL SALES TAX

Sec. 21-58. Levied; amount; etc.

Pursuant to section 58.1-605, Code of Virginia, a local general retail sales tax, at the rate of one percent (1%), to provide revenue for the general fund of the county, is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by chapter 6, title 58.1, Code of Virginia, and shall be subject to all provisions of such chapter, all the amendments thereto, and the rules and regulations published with respect thereto.
(Ord No. O98-12, 8/5/98)

Sec. 21-59. Administration and collection.

Pursuant to section 58.1-605, Code of Virginia, the local general retail sales tax levied by this article shall be administered and collected by the state tax commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by sections 58.1-603 and 58.1-604, Code of Virginia.
(Ord No. O98-12, 8/5/98)

Secs. 21-60—21-69. Reserved.

ARTICLE V. BANK FRANCHISE TAX

Sec. 21-70. Definitions.

For the purposes of this article, the following words shall have the meanings ascribed to them by this section:

Bank. Shall be as defined in section 58.1-1201, Code of Virginia.

Net Capital. A bank's net capital computed pursuant to section 58.1-1205, Code of Virginia.
(Ord. No. O98-12, 8/5/98)

Sec. 21-71. Imposed; amount.

(a) Pursuant to the provisions of chapter 12 title 58.1, Code of Virginia, there is hereby imposed upon each bank located outside any incorporated town, but otherwise within the boundaries of this county, a tax on net capital equaling eighty percent (80%) of the state rate of franchise tax set forth in section 58.1-1204, Code of Virginia.

(b) In the event that any bank located within the boundaries of the county, but outside any incorporated town located therein, is not the principal office but is a branch extension or affiliate of the principal office located outside the county, or is the principal office and has an office or offices outside the county, the tax upon such bank shall be apportioned as provided by section 58.1-1211, Code of Virginia.
(Ord. No. O98-12, 8/5/98)

Sec. 21-72. Banks' returns, reports, etc.

(a) On or after the first day of January of each year, but not later than March first of any such year, all banks whose principal offices are located within the county, but outside any incorporated town therein, shall prepare and file with the commissioner of the revenue a return, in duplicate, as provided by section 58.1-1207, Code of Virginia, which shall set forth the tax on net capital computed pursuant to chapter 12 of title 58.1, Code of Virginia. The commissioner of the revenue shall certify a copy of such filing of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

(b) In the event that the principal office of a bank is located outside the boundaries of the county or within any town located therein, and such bank has a branch office or offices located within the county, in addition to the filing requirements set forth in subsection (a) hereof, any bank conducting such branch business shall file with the commissioner of the revenue a copy of the real estate deduction schedule, apportionment and other items which are required by sections 58.1-1207, 58.1-1211, and 58.1-1212, Code of Virginia.
(Ord. No. O98-12, 8/5/98)

Sec. 21-73. Payment of tax.

Each bank, on or before the first day of June of each year, shall pay into the treasurer's office of the county all taxes imposed pursuant to this article.

Sec. 21-74. Penalty for failure to comply with article.

Any bank which fails to file a return or pay the tax required by this article shall be subject to a penalty of five percent (5%) of the tax due. If the commissioner of revenue is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with section 58.1-15, Code of Virginia.
(Ord. No. O98-12, 8/5/98)

Secs. 21-75—21-82. Reserved.

ARTICLE VI. RECORDATION TAX

Sec. 21-83. Imposed.

Pursuant to the provisions of section 58.1-814, Code of Virginia, there is hereby imposed a recordation tax on each taxable instrument recorded in the county in the amount of one-third (1/3) of the amount of the state recordation tax imposed by sections 58.1-800, et. seq., Code of Virginia, excepting such instruments as are exempted by section 58.1-811, Code of Virginia.
(Ord. No. O98-12, 8/5/98)

Sec. 21-84. Collection and disposition.

The recordation tax provided for in this article shall be collected by the clerk of the circuit court for the county and shall be paid monthly by such clerk to the treasurer of the county.

Secs. 21-85—21-91. Reserved.

ARTICLE VII. SPECIAL TAX FOR ENHANCED 911 EMERGENCY TELEPHONE SYSTEM (REPEALED November 15, 2016, Ord. No. 16-12)

ARTICLE VIII. TRANSIENT OCCUPANCY TAX

Sec. 21-92. Definitions.

(a) For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commissioner. Commissioner of the Revenue of the County of York, Virginia, or any duly authorized deputies or agents.

Hotel. Any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, rooming house, travel campground or tourist camp or other lodging place within the county offering lodging, and the owner and the operator thereof, who for compensation, furnishes lodging to any transient.

Lodging. Any space or room suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes, and furnished to any transient by a hotel as herein defined.

Room rental. The total charge made by any such hotel for lodging and/or space furnished any such transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging and/or the use of space, then such portion of the total charge as represents only room and/or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Transient. Any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging in any hotel as hereinabove defined, for which lodging a charge is made.

Treasurer. The Treasurer of the County of York, Virginia, or any duly authorized deputies or agents.
(Ord. No. 05-16, 6/21/05)

Sec. 21-93. Levy; amount of tax.

(a) In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied on each and every transient a tax equivalent to five (5) percent of the total amount paid for room rental by or for any such transient to any hotel.

(b) In addition to the tax provided for in subsection (a) above, commencing July 1, 2004, as provided in section 58.1-3823 (C) of the Code of Virginia, there is hereby levied and imposed an additional transient occupancy tax of two dollars ($2.00) per room night for the occupancy of any overnight guest room rented by a transient. Such additional tax shall be collected from such transient at the time

and in the manner provided by this section. The revenues collected from such additional tax shall be designated and expended solely for advertising the Historic Triangle area and shall be distributed and expended as provided in section 58.1-3823 (C) of the Code of Virginia.

(c) As used herein, "advertising the Historic Triangle area" shall mean advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay of at least one night.

(Ord. No. 04-8, 5/18/04; Ord. No. 06-27, 10/17/06)

Sec. 21-94. Exemptions.

No tax shall be payable hereunder on room rental paid to any hospital, medical clinic, convalescent home or home for the aged.

Sec. 12-95. Collection of tax.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of tax hereby imposed from the transient on whom the same is levied or from the person paying for such lodging, at the time payment for such lodging is made. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

Sec. 21-96. Report and remittance of tax.

(a) The person collecting any such tax shall make out a report upon such forms and setting forth such information as the commissioner shall prescribe and require, showing the amount of room rental charges collected, and the tax required to be collected, and shall sign and deliver the same to the commissioner with a remittance of such tax.

(b) Such reports and remittances shall be made on or before the twentieth day of each month and covering the amount of tax collected during the preceding month. If the remittance is by check or money order, it shall be payable to the county and all remittances received hereunder by the commissioner shall be promptly paid to the treasurer to be credited to the county general fund.

Sec. 21-97. Interest and penalties upon failure or refusal to remit tax or file report.

(a) If any person shall fail or refuse to remit the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to the tax owed, by the treasurer, a penalty of ten percent (10%) or ten dollars ($10.00), whichever is greater, for each such failure or refusal to remit taxes, and interest thereon at the rate of ten percent (10%) per annum on the amount of the tax and penalty from the date upon which the tax is due as provided in this article. No such penalty shall exceed the amount of the tax owed.

(b) If any person shall fail or refuse to file a report required to be filed by this article within the time specified, there shall be added to the tax owed, by the commissioner of revenue, a penalty of ten percent (10%) or ten dollars ($10.00), whichever is greater, for each such failure or refusal to file a report, which penalty shall become part of the tax owed at the time the penalty is assessed. No such penalty shall exceed the amount of the tax owed.

Sec. 21-98. When commissioner to determine the amount of tax due.

If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided, the reports and remittances required in this article, the commissioner shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the commis-

sioner shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person such tax, penalty and interest as provided for in this article, and shall notify such person, by certified mail sent to his last know place of address, of the amount of such tax, interest and penalty, and the total amount thereof shall be payable within ten (10) days from the date of the mailing of such notice.

Sec. 21-99. Tax immediately due and payable upon cessation of business.

The provisions of section 21-96 notwithstanding, whenever any person required to collect and remit the tax imposed and levied by this article shall go out of business, dispose of his business or otherwise cease to operate, all of such taxes collected shall thereupon be reported and remitted to the commissioner and remitted to the treasurer within thirty (30) days thereafter.

Sec. 21-100. Records to be kept.

It shall be the duty of every person liable for the collection and payment to the county of any tax imposed by this article to keep and to preserve for a period of four (4) years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the county. The commissioner may inspect such records at all reasonable times.

Sec. 21-101. Violation and penalty.

Any person violating any provision of this article shall be guilty of a Class 1 misdemeanor. Each violation shall constitute a separate offense, and no conviction shall relieve any such person from the collection and payment of the tax and the making of the report required by this article.

Secs. 21-102—21-119. Reserved.

ARTICLE IX. SHORT-TERM RENTAL TAX

Sec. 21-120. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Affiliated. Any common ownership interest, in excess of five percent (5%) of any officers or partners in common with the lessor and lessee.

Certificate of registration. The annual certificate issued by the commissioner of the revenue to persons engaged in the short-term rental business in the county who make application for such certificate pursuant to section 21-123.

Commissioner of the revenue. The Commission of the Revenue of the County of York, Virginia, and any of the commissioner's duly authorized deputies or agents.

Daily rental property. All tangible personal property held for rental and owned by a person engaged in the short-term rental business, as defined in this section, except trailers as defined in section 46.2-100(33), Code of Virginia, and other tangible personal property required to be licensed or registered with the department of motor vehicles, the department of game and inland fisheries or the department of aviation.

Gross proceeds. The total amount charged, including penalties, late charges or interest, to each person for the rental of daily rental property from a short-term rental business with a valid certificate of registration, excluding any state and local sales taxes paid pursuant to chapter 6 of title 58.1, Code of Virginia. Gross proceeds is the taxable basis for the daily rental tax.

Gross rental receipts. All proceeds from rentals during the calendar year, except that proceeds from rental of personal property which also involves the provisions of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. For purposes of this section, the delivery and installation of tangible personal property shall not mean operation.

Short-term rental business. Any person engaged in the short-term rental of daily rental property as defined in this section if not less than eighty percent (80%) of the gross rental receipts of such business in any year are from transactions involving rental periods of ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor; and provided, that any rental to a person affiliated with the lessor shall be treated as rental receipts but shall not qualify for purposes of the eighty percent (80%) requirement. Any person who grosses less than four thousand dollars ($4,000.00) in any year in short-term rental receipts from such business shall not be deemed to be engaged in the short-term rental business for purposes of this article.

Sec. 21-121. Levy and rate of daily rental tax.

Pursuant to section 58.1-3510.1, Code of Virginia, and in addition to all other taxes of every kind now or hereinafter imposed by law, the county hereby levies and imposes on every person engaged in the short-term rental business a tax on one percent (1%) on the gross proceeds, as defined in section 21-120 of this article, of such business. Such tax shall be in addition to the tax levied pursuant to section 58.1-605, Code of Virginia.

Sec. 21-122. Exemptions from daily rental tax.

(a) No tax hereunder shall be collected or payable on rentals to the Commonwealth of Virginia, to any political subdivision of the Commonwealth, or to the United States.

(b) No tax hereunder shall be collected or payable for any rental of durable medical equipment as defined in section 58-608(22), Code of Virginia.

(c) All rentals exempt from the Virginia Sales and Use Tax pursuant to chapter 6 of title 58.1, Code of Virginia shall be exempt from this daily rental tax.

(d) All exemptions from this tax claimed by short-term rental businesses at the time of payment of collected taxes shall be proved by filing of appropriate documentation as directed by the commissioner of the revenue and are subject to verification by the commissioner at any time.

Sec. 21-123. Short-term rental business application for certificate of registration.

Every person engaging in the business of short-term rental, as defined in section 21-120, shall annually file an application for a certificate of registration with the commissioner of the revenue for each place of business in the county from which short-term rental business will be conducted by the applicant. Such application shall be filed by January 31 of each year or within thirty (30) days of the beginning of a short-term rental business. The application shall be on a form prescribed by the commissioner of the revenue and shall contain:

(a) The name under which the applicant intends to operate the rental business;

(b) The location in the county from which the rental business will be conducted as well as the location of the rental business headquarters;

(c) The figures for the previous year's business, including the total gross receipts from all business, the total gross rental receipts and the total receipts from short-term rental of daily rental property;

(d) A list of all tangible personal property owned by the applicant on January 1 of the current year and used a short-term rental property;

(e) A list of all property leased or licensed to the short-term rental business as of January 1 of the current use year for short-term rental with the name and address of the owner of such property;

(f) Such other information as the commissioner may require; and

(g) An oath by the person making application or an officer, partner or duly authorized agent for such applicant that it is in fact qualified for tax treatment as a short-term rental business, that is shall collect only those daily rental taxes due under the law in the time and manner prescribed by law, and that it shall remit all daily rental taxes collected or due and owning to the county.

Sec. 21-124. Issuance and effect of certificate of registration for short-term daily rental business.

Upon approval of the application required by section 21-123 of this article by the commissioner of the revenue, a certificate of registration shall be issued for each location from which a daily rental business is to be conducted or operated in the county by the applicant. The certificate shall be conspicuously displayed at all times at the place of business for which it is used. The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

Sec. 21-125. Collection and record-keeping.

(a) Every person engaged in the short-term rental business with a valid certificate of registration from the commissioner of the revenue shall collect this daily rental tax from the lessee of the daily rental property at the time of the rental.

(b) The person collecting this tax shall maintain a record of all rental transactions for which this tax is collected which record shall contain:

(1) A description of the property rented;

(2) The period of time for which the property was rented;

(3) The name of the person to whom the property was rented; and

(4) The amount charged for each rental, including all late charges, penalties and interest.

(c) Every person engaged in the short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property, including, in addition to the information specified in subsection (b) of this section:

(1) A copy of the Virginia Department of Taxation tax-exemption certificate; or

(2) A copy of the U. S. Department Tax exemption certificate, which certificate must specify that the renter is exempt from sales tax; or

(3) Other explanation and proof of claimed exemption.

Sec. 21-126. Filing of quarterly tax returns and remittance of tax.

(a) Each certified short-term rental business under the provisions of this article shall file a quarterly tax return with the commissioner of the revenue, indicating for the quarter just past:

(1) The total business gross receipts of the return filer;

(2) The gross proceeds derived from the short-term rental business;

(3) All rental gross proceeds claimed to be exempt from the daily rental tax and documentation of each such claim;

(4) The total daily rental tax due the county for the previous quarter's short-term rental business.

(b) Each return shall be accompanied by payment of the taxes due and owning or collected by the certified, short-term rental business. The quarterly return and payment of tax shall be filed with the commissioner of the revenue on or before the twentieth day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31.

Sec. 21-127. Taxes held in trust for county.

The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

Sec. 21-128. Penalty for failure or refusal to collect tax.

If any certified, short-term rental business in the county fails or refuses to collect the tax imposed under this article, its current certificate of registration shall be revoked and the business shall not be subject to the provision of sections 58.1-3510, 58.1-3510.1 and 58.1-3706.C, Code of Virginia, nor to the provisions of section 14-27(b)(16) or of this article for the calendar year in which the certificate was revoked. Any payments of daily rental tax made previous to the revocation of the certificate shall be refunded to such lessees as can be identified with the balance being credited to the omitted assessment of personal property and business license taxes due to the change in taxable status of the short-term rental business.

Sec. 21-129. Penalties and interest—Failure to file return or pay over taxes collected.

(a) If any certified, short-term rental business fails to file the returns required by this section or fails or refuses to remit to the commissioner of the revenue the tax collected and paid under this article at the time specified in this article, there shall be added to such tax a penalty in the amount of ten percent (10%) of the tax past due or the sum of ten dollars ($10.00), whichever is greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this article.

(b) Interest on late payments of any taxes due shall be added at the rate of ten percent (10%) per year. Penalty and interest for failure to file the return or to pay the tax due pursuant to this article shall be assessed on the first day following the day such quarterly return and tax payment is due.

Sec. 21-130. Uncertified renters prohibited from collecting tax.

No person renting any property or services to any other person shall collect from the lessee the daily rental tax authorized by this article unless he has a valid certificate of registration issued for the current year by the commissioner of the revenue. Any taxes collected in this manner not authorized by law shall be forfeited to the county.

Sec. 21-131. Criminal penalties.

(a) Persons violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor, except as provided below.

(b) If the amount of tax due and unpaid for any quarter exceeds one thousand dollars ($1,000.00), any person failing to file a return or remit payment when due and charged with such failure on a criminal warrant shall be guilty of a Class 1 misdemeanor.

(c) Any person violating section 21-130 shall be guilty of a Class 1 misdemeanor.

Sec. 21-132. Taxation of rental property that is not daily rental property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to section 58.1-3503, Code of Virginia.

Secs. 21-133—21-149. Reserved.

ARTICLE X. TAX ON PREPARED FOOD AND BEVERAGE

Sec. 21-150. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Caterer. A person who furnishes food on the premises of another for compensation.

Commissioner of the revenue. The Commission of the Revenue of the County of York, Virginia, and any of his duly authorized deputies, assistants, employees or agents.

Food. Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages as defined in section 4.1-100, Code of Virginia, and non alcoholic beverages served as part of a meal, purchased in or from a restaurant or from a caterer, whether or not prepared in such restaurant or by such caterer, and whether or not consumed on the premises of such restaurant or caterer, and without regard to the manner, time, or place of service. The term shall not include “food” as defined in the federal Food Stamp Act of 1977 (7 U.S.C. §2012, as it may be amended from time to time), except that the term shall include sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages.

Person. Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Purchaser. Any person who purchases food in or from a restaurant or from a caterer.

Restaurant.

(a) Any place where food is prepared for service to the public whether on or off the premises;

(b) Any place where food is served to the public; or

(c) Any place or operation which prepares or stores food for distribution to person of the same business operation or of a related business operation for service to the public.

Examples include: dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, lunchroom, short order place, tavern, delicatessen, confectionery, bakery, eating house, eatery, drugstore, catering service, lunch wagon or truck, pushcart or other mobile facility that sells food, dining facility in a public or private club, resort, bar or lounge, kitchen facility of a hospital or nursing home, and dining facility of a public or private school or college.

Seller. Any person who sells food in or from a restaurant or as a caterer.

Snack food. Chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips and other items of essentially the same nature and consumed for essentially the same purpose.

Treasurer. The Treasurer of the County of York and any of his duly authorized deputies, assistants, employees or agents.
(Ord. No. 00-9, 6/20/00—effective July 1, 2000)

Sec. 21-151. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered for human consumption in the county in or from a restaurant, whether prepared in such restaurant or not and whether consumed on the premises or not, or prepared by a caterer. The rate of this tax shall be four percent (4%) of the amount paid for such food. In the computation of this tax, any fraction of one-half cent ($0.005) or more shall be treated as one cent ($0.01).
(Ord. No. 00-9, 6/20/00—effective July 1, 2000)

Sec. 21-152. Payment and collection of tax.

Every seller of food with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchases on whom the same is levied at the time payment for such food become due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller who shall pay the taxes collected to the county as provided in this article. Taxes collected by the seller shall be held in trust by the seller until remitted to the county.

Sec. 21-153. Reports and remittances—Generally.

Every seller of food with respect to which a tax is levied under this article shall make out a report upon such forms and setting forth such information as the commissioner of the revenue may prescribe and require, showing the amount of food charges collected and the tax required to be collected, and shall sign and deliver such report to the commissioner of the revenue with a remittance of such tax. Such reports and remittance shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month.

Sec. 21-154. Preservation of records.

It shall be the duty of any seller of food liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of four (4) years records showing gross sales of all food and beverages, the amount charged the purchaser of each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The commissioner of the revenue shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts thereon.

Sec. 21-155. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or part of the tax imposed under this article will be paid or absorbed by the seller or anyone else or that the sell or anyone else will relieve the purchaser of the payment of all or any part of the tax.

Sec. 21-156. Tips and service charges.

(a) Where a purchaser provides a gratuity for an employee or employees of a seller, and the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided, in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

(b) A mandatory gratuity or service charge that is added to the price of the meal by the seller, and required to be paid by the purchaser, is not a part of the selling price of the meal and is exempt from the tax imposed by this article, but only to the extent that such mandatory charge does not exceed 20% of the sale price.

(Ord. No. 06-9(R), 6/27/06)

Sec. 21-157. Duty of seller when going out of business.

Whenever any seller required to collect or pay the county a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay tax due.

Sec. 21-158. Enforcement; duty of commissioner of the revenue.

The commissioner of the revenue shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the commissioner of the revenue to ascertain the name of every seller liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The commissioner of the revenue shall have all of the enforcement powers as authorized by article 1, chapter 31 of title 58.1, Code of Virginia (1950), as amended, for purposes of this article.

Sec. 21-159. Procedure upon failure to collect, report, etc.

If any seller whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances mentioned in this article, the commissioner of the revenue shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the commissioner of the revenue shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any seller who has failed to refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such seller the tax and penalties provided for by this article and shall notify such seller, by registered mail sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten (10) days from the date such notice is sent.

Sec. 21-160. Duty of treasurer.

The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county.

Sec. 21-161. Penalty for late remittance or return.

(a) If any seller whose duty it is to do so shall fail or refuse to remit to the treasurer the tax required to be collected and paid under this article within the time and within the amount specified in this article, there shall be added to such tax by the treasurer a penalty for each such failure or refusal in the amount of ten percent (10%) thereof or ten dollars ($10.00), whichever is greater, and interest thereon at the rate of ten percent (10%) per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable. No such penalty shall exceed the amount of tax owed.

(b) If any seller whose duty it is to do so shall fail or refuse to file any report required by this article within the time specified, there shall be added to the tax due by the commissioner of revenue a penalty for each such failure or refusal in the amount of ten percent (10%) thereof or ten dollars ($10.00), whichever is greater, which penalty shall become part of the tax owed at the time the penalty is assessed. No such penalty shall exceed the amount of tax owed.

Sec. 21-162. Violations of article.

Any person violating, failing, refusing or neglecting to comply with any provision of this article shall be guilty of a Class 3 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes provided for in this article. Any agreement by any person to pay the taxes provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the treasurer. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

Sec. 21-163. Exemptions.

The following purchases of food shall not be subject to the tax under this article:

(a) Food furnished by restaurants to employees as part of their compensation when no charge is made to the employee;

(b) Food sold by nonprofit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees;

(c) Food for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States;

(d) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof;

(e) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations;

(f) Food sold by a nonprofit education, charitable or benevolent organization on an occasional basis as a fund-raising activity or food sold by a church or religious body on an occasional basis where the gross proceeds of such sale are to be used exclusively for non-profit educational, charitable, benevolent, or religious purposes;

(g) Food furnished by boarding houses that do not accommodate transients;

(h) Food sold by cafeterias operated by industrial plants for employees only;

(i) Food sold by nonprofit cafeterias in public schools, nursing homes and hospitals;

(j) Food sold by churches, fraternal and social organizations and volunteer fire departments and reserve squads which hold occasional dinners and bazaars of one or two day duration as a fund-raising activity, at which food prepared in the homes of members or in the kitchen of the organization is offered for sale to the public;

(k) Food furnished by churches which serve meals for their members as a regular part of their religious observance;

(l) Food sold through vending machines;

(m) Food sold by grocery stores and convenience stores, except for prepared food ready for human consumption sold at a delicatessen counter or in a section designated for the sale of prepared food and beverages;

(n) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption;

(o) Snack foods not served as part of a meal;

(p) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulation issued pursuant thereto.

(Ord. No. 00-9, 6/20/00—effective July 1, 2000)

CODE OF THE COUNTY OF YORK

Chapter 22

WATER AND WATER SUPPLIES

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ARTICLE I. IN GENERAL

Sec. 22-1. Purpose and Policy.

This chapter sets forth requirements for water supply and distribution in York County. It covers both individual and public systems, and has been enacted to promote the health, safety, and general welfare by providing an adequate, safe supply of water and by providing for the orderly growth and development of the county. The provisions of this chapter shall apply throughout the county including specifically any established sanitary districts. This chapter also provides for the construction, operation, extension, maintenance, and the setting of charges and fees for the use of the water facilities of the county and its sanitary districts. Revenues derived from the application of this chapter shall be used to defray York County's cost of operating and maintaining adequate water supply and distribution systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.

Sec. 22-2. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings stated in this section:

Abut: Touching, adjoining, or bordering on.

Applicant: The owner of the property to be served, or his duly authorized representative who applies to the county for water service.

Appurtenance: Any accessory object or component connected to a public water system.

Backflow: The undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources.

Backflow *prevention device*: An approved device, method or type of construction designed to prevent backflow into a public water system.

Building water piping: All water lines and facilities from the water service pipe to the point of ultimate use where water is exposed to the atmosphere.

Connection fee: An initial service charge levied to defray the cost of providing public water.

Construction: Any placement or installation of water facilities or equipment including preparation work for such installation.

Contractor: Any person performing work (other than the county) on facilities of the county.

County: York County, Virginia, or any of the established Sanitary Districts in York County.

Cross-connection: Any connection or structural arrangement, direct or indirect, to the public water system whereby backflow can occur.

Developer: Any person having a legal interest in real property which may now or in the future be served by the facilities of the county and who is or may be responsible for the design and/or construction of such facilities.

Development: Any building or subdivision activity which is required to have either site plan or subdivision approval of the county before it is commenced.

Dwelling unit: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Emergency: A situation in which the sufficiency or quality of water supplies are jeopardized by reason of drought, distribution system failure, or other cause.

Equivalent Dwelling Unit (EDU): The flow of water equivalent to the average flow of a single-family residential dwelling unit. Each EDU shall equal three hundred (300) gallons per day.

Existing structure: A structure completed or placed on a parcel, as evidenced by a Certificate of Use and Occupancy, on or before the date that notice is given that water service is available, which is located within three hundred (300) feet of the easement or right-of-way in which such service is located.

Facilities of the county: Any water pipe, water storage tank, water pressure tank or pump, or any other appurtenance of the water distribution or supply system, whether located within or without of the boundaries of the county, which have been, are, or are intended to be installed, operated, or maintained by the county or in the installation, operation, or maintenance of which the county has participated, is participating, or intends to participate financially.

Fire protection system: A separate system of water pipes or mains and their appurtenances installed solely to supply water to extinguish fires.

Fire service connection: A pipe extending from a public water system to supply a sprinkler, standpipe, yard main, or other fire protection system.

Future structure: A structure completed after the date that notice is given that water service is available as evidenced by the absence of a Certificate of Use and Occupancy at the time notice is given.

Future use capacity: Capacity for the future in system facilities; capacity not needed at time of design and construction to accommodate existing needs; or capacity which provides for the future development of property and for community growth.

Governing body: The Board of Supervisors of York County which serves as the governing body for both the county and the sanitary districts of the county.

Health Department: The York-Poquoson Health Department or, where appropriate to the context, the Virginia Department of Health.

Incremental capacity: The additional capacity required in system facilities to accommodate a specific development.

Individual water supply facilities: Water supply facilities serving individual premises owned and operated by the owner of the premises.

Installed; repaired; approved standard: Whenever these terms are used, they shall be interpreted to include the phrase "in accordance with any standards and specifications established pursuant to this chapter".

Internal water distribution system: The pipes, valves, fittings, fire hydrants, service connections, meter settings, and other appurtenances lying wholly within a development such as a mobile home park, an industrial or commercial complex, apartment project, or similar use which system is privately owned and

used to convey water from a public supply facility abutting the development to individual uses within the development.

Local facilities: All water facilities serving only one development; any water service line to which building water piping is connected; all transmission and distribution mains eight inches or less in diameter; all fire mains; all service meters; meter installations; fire hydrants; and water facilities whether on site or off site necessary to make the facilities of the county accessible to the premises.

Nonpotable water: Any water other than potable water.

Off-site extension: An extension of a water line from existing local or system facilities of the county to the property boundary of the developer or applicant in a manner and location approved by the county.

Owner: Any person having an interest whether legal or equitable, sole or partial, in real property.

Premises: Any building, group of buildings, or land upon which buildings are to be constructed which is or may be served by the facilities of the county.

Premises having service available: Any premises, whether improved or unimproved, which abut, or which are located not more than three hundred (300) feet from, the facilities of the county or other public water system or a right-of-way in which such facilities are located and which could be served by such facilities or system.

Primary service area: An area or areas designated by the governing body for current or future emphasis in the provision of public water service based on plans for future development of the county.

Private water system: A water system other than a public water system.

Public water or public water system: A water system owned and operated by the county or any adjoining city or county or service authority, and which has a Certificate to Operate issued by the Virginia Department of Health.

Service charge: An initial and/or periodic charge levied to defray costs associated with the construction, operation, maintenance, repair, and replacement of public water.

Standards: The water standards and specifications of the county.

System facilities: All facilities of the county other than local facilities.

Underground leak: A water leak on the premises of the user whose system is connected to the facilities of the county which leak is in the pipes only, and in such a location that the pipe cannot be seen without digging or destroying property. Leaks due to faulty installation even if under the earth are specifically excluded from this definition.

User: Any person who uses or permits the use of water from the facilities of the county or other public water systems.

Water or potable water: Water provided for drinking and meeting applicable standards of the U. S. Environmental Protection Agency, U. S. Public Health Service, and the Virginia Department of Health for drinking water.

Water conservation program: A program for conservation of water which may include: (1) a prohibition on watering of lawns, gardens, shrubs, trees, or other plants, (2) a prohibition of washing cars, boats,

houses, or other large objects usually washed outside, and (3) such other measures as may be described by the county administrator.

Water purveyor: An individual, group of individuals, partnership, firm, association, institution, corporation, local government, or authority which supplies water to any person within the county, from or by means of a public or private water system.

Water service connection: The point at or near the applicant's property or easement line where the water service pipe connects to the water service line.

Water service line: That portion of pipe within the water system which extends from the public water main to the water service connection.

Water service pipe: The extension from the end of the water service connection to the inner face of the building wall.

Water supply: Water taken into a public water system from wells and bodies of surface water.

Water system: All structures and appurtenances, whether publicly or privately owned, used in connection with the collection, storage, purification, or treatment of water for drinking, commercial or domestic usage, or fire protection and the distribution thereof.

Sec. 22-3. Responsibility of the county administrator.

The county administrator shall have direct charge, including the responsibility for operation and maintenance, of the facilities of the county. The county administrator shall prepare such standards and regulations not inconsistent with this chapter as may be necessary to regulate the design, construction, and operation of the facilities of the county, public systems, private systems, and of other water systems which affect or may affect the existing or future facilities of the county. The standards and regulations shall be subject to the approval of the governing body and shall be amended from time to time as conditions warrant.

Sec. 22-4. Right of entry to premises.

All premises connected to the facilities of the county shall at all reasonable hours be open to the county's duly authorized agents and employees for the purpose of installing, removing, repairing, maintaining, measuring, or sampling the facilities of the county or for inspecting the premises, fixtures, and appurtenances therein which are connected to the facilities of the county. Refusal to permit such inspection shall result in termination of water service to the premises.

Sec. 22-5. Notice generally.

Unless otherwise provided in this chapter or by law, when notice is required to be given by the provisions of this chapter, such notice may be given by certified mail, return receipt requested, to the owner at the mailing address of the owner, as shown on the current Land Book of the county. In the alternative, such notice may be delivered to the owner personally, or a member of the owner's immediate family, or posted at the front door of the premises if the address of the premises is the same as the address listed for the owner on the Land Book. In the event none of the above methods is available, notice may be given by publication one time in a newspaper of general circulation in the county.

Sec. 22-6. Special projects.

Notwithstanding other provisions of this chapter, the governing body may establish by ordinance special connection or service fees or water system standards and regulations when such fees or standards and regulations are necessary to qualify for or administer grants or loans from other governmental entities.

Sec. 22-7. Enforcement and abatement.

(a) Whenever the county administrator determines or has reasonable cause to believe that any provision of this chapter is being violated or is about to be violated by any person, the county administrator shall notify such person of such violation. Failure of the county administrator to provide notice to the user shall not in any way relieve the user from any consequences of a wrongful or illegal act. The notice shall state:

(1) The nature of the actual or threatened violation.

(2) The time within which appropriate measures must be taken to prevent any threatened violation or the reoccurrence of any actual violation and to furnish evidence that such corrective action has been taken. The county administrator shall also notify the Health Department should the violation fall within its jurisdiction.

(b) In the event such person fails to furnish satisfactory evidence to the county administrator that corrective action has been taken within the time prescribed by the notice, the county administrator shall take such steps as may be required in order to abate the violation.

(c) Any person violating any provision of this chapter shall be responsible to the county for any expense, loss, or damage to the county by reason of such violation.

Sec. 22-8. Discontinuance of service for violation of rules or regulations.

Water service may be discontinued for any violation of any provision of this chapter or of any rule or regulation promulgated pursuant to this chapter. The procedure outlined for disconnection of water supplies in Section 22-115 of this chapter shall be followed.

Sec. 22-9. Violations and penalties.

(a) Any person who violates any provision of this chapter or any rule or regulation promulgated pursuant to this chapter shall, upon conviction, be punishable by imprisonment not to exceed thirty (30) days or by a fine not to exceed One Thousand Dollars ($1,000.00), or both. Each day of such violation shall constitute a separate offense.

(b) In addition to criminal penalties and other specific relief set forth in this chapter, the county shall have the right to seek injunctive or other appropriate judicial relief which right shall be in addition to any nonjudicial action set forth in this chapter. In any judicial action of a civil nature, the county shall have the right to recover any actual damages sustained, including charges for water lost or used and any expense incurred by the county in corrective or preventative action taken for the purpose of protecting the integrity of the public water system or the environment.

(c) The county may recover reasonable attorneys' fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law from any person found to be in violation of, or noncompliance with, this chapter or the orders, rules, regulations, or permits issued hereunder.

Sec. 22-10. Existing agreements.

Notwithstanding any other provisions of this chapter, any written agreements made with regard to water system construction, or extension, or financing prior to the effective date of this chapter shall be completed in accordance with their terms and ordinances in effect at the time such agreements were made.

Sec. 22-11. Connection to certain facilities of the county; permit required.

Connections to the facilities of the county, the construction of which was completed on or after January 1, 1988, shall be made only after a permit has been issued by the county administrator. The owner of any premises to be connected, or the owner's agent, shall make application for service upon forms to be furnished by the county. The application shall be accompanied by payment of the required connection fee and shall be supplemented by any plans, specifications or other information reasonably required by the county administrator. If the application and fees conform to this chapter and any other applicable laws, a permit shall be issued in duplicate, one copy to be mailed or delivered to the owner and one copy to the water purveyor, if other than the county.

Sec. 22-12 through 22-20. Reserved for future legislation.

ARTICLE II. OPERATING PROCEDURES

DIVISION 1. GENERALLY

Sec. 22-21. Permits to be governed by chapter.

No permit shall be issued for the erection or construction of any building or structure requiring water unless the owner of the premises provides evidence to the satisfaction of the building official that the premises has a permit for connection to the facilities of the county or that other water supply facilities meeting the requirements of this chapter can and will be provided.

Sec. 22-22. Building water piping.

(a) The methods, materials, and equipment used in the construction and installation of building water piping shall comply with the Uniform Statewide Building Code and the provisions of this chapter.

(b) All required permits and certificates shall be obtained before construction, alteration, or repair is commenced on building water piping or connection thereof is made to the facilities of the county or other public water systems.

(c) Prior to building permit issuance, inspection fees in the amount set forth in Section 22-87 shall be paid for the inspection by the county of building water piping located outside the face of structures in any development.

Sec. 22-23. Damage to facilities.

(a) No person shall maliciously, willfully, or negligently break, damage, remove, destroy, uncover, deface, or tamper with any structure, apparatus, or equipment which is part of the facilities of the county or other water system.

(b) No person shall damage or deface any property of the facilities of the county or other water system, cut any trees, or dump any refuse or rubbish upon any part of the property used in connection with the facilities of the county or other water system.

(c) In the event of damage to the facilities of the county or other water system, it shall be the responsibility of the person causing such damage to notify immediately the county administrator and the owner of the system if other than the county. The necessary repairs or replacement shall be made by the owner of the system or under the supervision of the owner at the expense of the person causing such damage.

Sec. 22-24. Construction standards for water service lines and internal distribution systems.

The materials used in and the construction of water service lines or internal water distribution systems constructed in mobile home parks, apartment or other residential complexes, industrial and commercial complexes, and similar uses connected to a public water system and the methods to be used in excavating, placing the pipe, testing, disinfecting, and backfilling the trench shall conform to the requirements of this chapter and the standards and regulations adopted hereunder.

Sec. 22-25. Construction safeguards.

(a) Any person engaged in construction of an authorized water service connection or water system shall comply with all provisions of this chapter and any regulations adopted pursuant to it, and with any other applicable provisions of law, and shall install adequate safeguards during construction to ensure compliance at all times with such regulations and laws.

(b) All construction shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the county administrator and where appropriate to the Resident Engineer of the Virginia Department of Transportation.

Sec. 22-26. Removal of safety and warning devices prohibited.

No person shall maliciously, willfully, or negligently break, remove, destroy, move, deface, or tamper with any safety light, barricade, pot torch, or other safety device placed for either the public or workers protection during the construction, repair, or maintenance of any water system.

Sec. 22-27. Unauthorized tapping, drilling, or cutting of water systems.

It shall be unlawful for any person, other than a duly authorized employee or agent of the owner of the system to tap, drill into, or cut any water system. It shall also be unlawful for any unauthorized person to disconnect a water pipe, move or take any action to introduce water to any premises, or turn on the water to any service.

Sec. 22-28. Unauthorized use of water.

It shall be unlawful for any person to draw water from any water service line, fire hydrant, blow off, main, valve, or any other facility of a water system without first arranging with the owner thereof for the same and paying all applicable charges pertaining thereto. This section does not apply to the use of water for the legitimate purpose of extinguishing fires.

Sec. 22-29. Fire hydrants and private fire protection systems.

(a) Fire hydrants are provided for the sole purpose of extinguishing fires and all persons other than those specifically authorized by the owner of the water system are prohibited from opening or using the same. Any person authorized to open a fire hydrant shall use only an approved wrench and shall replace caps on the outlets when not in use. All authorized uses shall be metered and the required service charges shall apply. A fire hydrant meter shall be furnished by the user, and shall be registered with and approved by the county or other water system owner prior to its use. If the county is the owner the user shall, in addition, place a $25.00 deposit with the county, which shall be applied towards the user's bill for water use.

(b) No person shall place or cause to be placed any inoperative fire hydrant, or any device that resembles a hydrant, in such a manner as to be confused with a functioning fire hydrant.

(c) Private fire protection systems shall be subject to the following regulations in addition to other requirements:

(1) A fire service detector check meter shall be installed in a bypass to monitor small flows in the fire service connection. The county shall read each detector check meter at least annually. The county reserves the right to require an existing fire service connection customer to install at its expense a detector check meter with a bypass pipe.

(2) There shall be no charge for water supplied through a private fire protection system which is used to extinguish fires.

(3) No addition of any hydrant, standpipe, sprinkler head or other outlet shall be made to a fire protection system until plans for such addition have been submitted to and approved in writing by the county.

(4) Water supplied through a private fire service connection shall be used solely for the extinguishment of fires and, upon approval by the county, for fire drill testing of the fire protection system.

(d) Fire hydrants and other fire protection measures shall be required and installed as part of the construction or extension of water systems in accordance with the standards and regulations of the county, or the system owner, whichever are more stringent.

Sec. 22-30. Resale of water.

The resale of water taken from public water systems or private systems supplied by public water systems is prohibited under any terms or conditions except when specifically authorized by the county administrator.

Sec. 22-31. Interference with water system easements.

If any person shall construct or cause to be constructed any permanent structure, fence, slab, or other improvement within a water system easement or plant or cause to be planted any tree, shrub, or hedge within such easement, or place or cause to be placed some other obstacle within such easement, any or all of which impede access to the water system and if any such obstruction is encountered in attempting to gain access, the obstruction shall be removed at the expense of the property owner and shall not be replaced by the owner of the system. Nothing in this section, however, shall supersede the provisions contained in any deed of easement duly executed and recorded.

Sec. 22-32. Space around meter or shut-off box to be free of any obstructions.

Each owner will be responsible for keeping the space about the water meter or shut-off box serving the property free and clear of all obstructions which may in any way interfere with free access to the same by county employees at any time. Failure to comply with such responsibility shall authorize the county after notice in writing or in person to clear any obstruction within twenty-four hours of such notice and the cost thereof plus ten percent (10%) shall be charged to the owner.

Sec. 22-33. Liability of county.

The county shall not be liable for any damages resulting from the bursting of any main, surface pipe, or cock, from the shutting off of water for repairs, extensions, or connections, or from the accidental failure of the water supply from any cause whatsoever. In cases of emergency the county shall have the right to restrict the uses of water in any reasonable manner for the protection of the public and the water supply.

The county will not be responsible for any damage caused by defective plumbing or open outlets when water service is turned on by the owner or agent of the owner. All applicants for, and consumers of, water provided by the facilities of the county shall be required to accept and shall be deemed to have consented to such conditions of pressure and service as are provided by the facilities of the county at the location serviced and to hold the county harmless from any damages arising out of low pressure or high pressure conditions, interruptions of service, or the quality of water.

Sec. 22-34. Inter-connection of private water supply system to facilities of the county prohibited.

The inter-connection of individual private water supply systems to the facilities of the county shall be prohibited. Private wells and other individual water sources shall be physically disconnected from building plumbing systems before water may be supplied to the premises through the facilities of the county.

This section shall not be deemed to prevent inter-connection or cross-connection of private water storage or pressure booster systems which shall be by means of approved backflow prevention devices in accordance with Division 2 of this article.

Sec. 22-35. Separate service required for each use.

A separate and independent water service line shall be provided for each dwelling unit, commercial unit, or industrial user. Each water service line shall be metered, except that the owner of the system may at its discretion, permit a master meter for mobile home parks, apartments, or other multiple unit users where water is to be furnished by a single owner.

It shall be unlawful for any person to extend any pipe or to use any devise or attachment to supply water to any premises other than that described in the application for water service.

Sec. 22-36. Point of connection determined; moving of meter or service.

The connection point with the facilities of the county shall be at the water service connection provided by the county. In the event the property owner wishes to change the location of the water service connection, the full cost of providing a second point of connection shall be borne by the owner. The work shall be done by the County or its agent and the cost of such work shall be charged to the owner at actual cost plus ten percent (10%).

Sec. 22-37. Shutting off water for repairs, connections, etc.

The county reserves the right to at any time shut off the water in the main distribution lines and services of any water supply system for the purpose of repairing or making connections or extensions or for any other purpose that may be deemed necessary. If practicable, due notice will be given. No claim shall be made against the county for any damages caused by any such disruption in the water supply.

Sec. 22-38. Pollution of supply.

It shall be unlawful for any person to defile or render impure, turbid, or offensive water used for supply to the facilities of the county. It shall be unlawful for any person to add any unauthorized chemicals or substances to the facilities of the county.

Sec. 22-39 through 22-45. Reserved for future legislation.

DIVISION 2. CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION

Sec. 22-46. In general.

(a) The Federal Safe Drinking Water Act of 1974 and Article 3 of the Virginia Department of Health Waterworks Regulations provide that the water purveyor has the primary responsibility for

preventing water from unapproved sources, or any other substance, from entering public or private potable water systems.

(b) Public and private water systems shall be designed, installed, and maintained in such a manner as to prevent contamination from being introduced into the potable water supply through cross-connections or any other manner of connection.

(c) Water systems shall be protected against backflow by the installation and maintenance at all fixtures, equipment and outlets where backflow may occur, a suitable backflow prevention device as required by this chapter.

Sec. 22-47. Responsibility of the county administrator.

(a) The county administrator shall cause the inspection of the plumbing within every building and all water service pipes as frequently as in the county administrator's judgment may be necessary to insure that such plumbing has been installed and maintained in such a manner as to prevent the possibility of pollution of the water supply.

(b) Agents of the county administrator, bearing suitable identification, shall have the right of entry into any building, during reasonable hours, for the purpose of making inspection of the plumbing system installed in such building, or premises, and water service pipes, for cross-connection or backflow problems caused by improper installation, repair or maintenance, faulty equipment or any other cause. Upon request, water system or property owners shall furnish to the county administrator pertinent information regarding the piping system on such property. In the event the owner or occupant of any building, including a building under construction, refuses to permit such inspection or furnish such information, the county administrator may order water service to such property terminated.

(c) The county administrator is authorized to make all necessary rules, regulations, standards and policies with respect to administration and enforcement of this division. All such rules, regulations, standards and policies shall be consistent with this chapter and other requirements of law.

Sec. 22-48. Approved backflow prevention devices.

Any backflow prevention device or system shall be designed, installed and maintained in such a manner as to be in compliance with the Virginia Uniform Statewide Building Code, the Virginia Waterworks Regulations, the standards established by the American Waterworks Association, and the standards and regulations of the county.

Sec. 22-49 through 22-69. Reserved for future legislation.

DIVISION 3. WATER CONSERVATION GENERALLY; EMERGENCIES

Sec. 22-70. General.

(a) Purpose and intent. Water conservation provides a public benefit through the reduction of water use and water losses. To ensure the continued availability of a safe and adequate water supply

for users, it is necessary to control the demand for water. During prolonged or extended periods of high temperatures and below average rainfall and streamflow, it will be necessary to reduce, restrict or curtail potable water use in order to conserve the water supply to protect the welfare, safety, and health of the public.

(b) Definitions. For the purposes of this article, the following terms shall have the meanings respectively ascribed to them:

(1) Recycling system. A water system that captures and reuses a minimum of 10% waste water.

(2) Minimize. Reduce water consumption to the lowest level technologically and economically feasible.

(3) Alternate Water Source. A well or well system which delivers ground water of suitable quantity and quality for the desired application.

Sec. 22-71. Water conservation generally

(a) Flow Rates for Plumbing Fixtures and Public Lavatories. In recognition of the growing demand for water in the service area and the importance of conservation as a means of ensuring that future water supplies will be sufficient to meet these demands, only fixtures conforming to the flow specifications of Virginia Uniform Statewide Building Code shall be installed in buildings served by public water systems.

(b) Car Washes. All drive through car wash installations using public water that are put in operation after the effective date of this ordinance shall be equipped with a water recycling system. Drive through car wash installations which cannot install or maintain in good repair a water recycling system shall use an alternate source of water. Self-serve wash installations and mobile car wash systems shall maintain their pressure spray equipment according to the manufacturer's specifications for minimum water use.

(c) Waste of Water, generally. No person shall permit or cause uncontrolled flow of water from any hydrant, meter, or other fixture without taking proper care to prevent waste.

(d) Waste of Water, Leak repairs. Any owner of any residential unit or commercial or industrial establishment who uses an excessive amount of water due to leakage from water lines or plumbing fixtures on the premises, and who fails to promptly repair and stop such leakage after notice from the county administrator shall be subject to the penalties for violation of this chapter and to the remedies provided in Section 22-74.

(e) Continuous Flow Equipment. In all new construction and when any continuous flow devices are repaired or replaced, any water connector device or appliance requiring a continuous flow of five gallons per minute or more and not covered specifically by this section, shall be equipped with a water recycling system.

Sec. 22-72. Declaration of water emergency.

(a) In the event that the governing body finds a water emergency to exist, it shall so declare, shall designate the area or areas of the county to which the emergency applies, and specify the provisions of a water conservation program.

(b) In the event that the county administrator shall determine that a water emergency exists and that the gravity or urgency thereof does not permit delaying consideration thereof until the next regular meeting of the governing body or the calling of a special meeting without unduly endangering the public health, safety, or welfare in the interim, the county administrator may declare an emergency to exist, designate the area or areas to which the emergency applies, and specify the provisions of a water conservation program.

(c) Such action by the county administrator shall be as effective as if taken *ab initio* by the governing body, but shall be valid only until the next regular meeting of the governing body or special meeting, if held sooner.

Sec. 22-73. Notice.

In the event a water emergency is declared, the county administrator shall notify the public by publishing notice at least once in a newspaper having general circulation in the county and by posting a notice at the front door of the Circuit Courthouse of York County within two (2) weekdays after such declaration and may also give notice through such other methods as may appear to be most effective in communicating the existence of the emergency to the public. Such notices shall specify the areas affected by the emergency and the provisions of the water conservation program.

Sec. 22-74. Additional remedies in the event of violations of a water conservation program.

(a) In any instance in which a water conservation program put in effect pursuant to this Division is not followed, the county administrator shall issue a written warning to the violator and to the owner if other than the violator. If after such written warning the violator or any other occupant of the property shall fail to observe the water conservation program, the county administrator shall remove the water meter from the property for a period not to exceed twenty-four (24) hours. In the event of any further violation of the water conservation program after the meter is reinstalled the water purveyor shall remove the meter until the water emergency is terminated. All costs associated with the removal and reinstallation of the meter shall be borne by the owner.

(b) In the event that the Health Department shall find that it is an eminent threat to health or life for a property to be without water he shall also notify the county administrator and the county administrator shall immediately restore service if it has been previously terminated under this section.

(c) It shall be unlawful to violate the provisions of a water conservation program and the remedy set forth in this section is in addition to any other remedies or penalties set forth in this chapter for failure to comply with the provisions of this chapter.

(d) The water conservation program established by the county administrator shall generally be in accordance with the program requirements of Ordinance No. 4708-95 adopted by the Council of the City of Newport News, Virginia on April 25, 1995.

Sec. 22-75 through 22-80. Reserved for future legislation.

ARTICLE III. PRIVATE WATER SUPPLY SYSTEMS

Section 22-81. Private water systems generally.

(a) After the effective date of this chapter, the construction or installation of private wells or water systems intended or used to supply potable water is prohibited except as authorized in paragraph (b) of this section.

(b) Individual wells on each lot, when approved by the Health Department, may be used as a source of potable water in the following instances:

(1) On all premises with an existing well in operation on the effective date of this chapter as long as no new or expanded development is proposed on the premises which exceeds the existing well capacity and when all requirements of this chapter and the Health Department are met;

(2) For single family detached residential units constructed on existing lots which are not defined as premises having service available;

(3) For new residential subdivisions of five lots or less, meeting the requirements of the Zoning and Subdivision Ordinances for lot size which result from the division of property which is not a premises having service available;

(4) For new residential subdivisions, regardless of the number of lots, when all lots within the subdivision are greater than two (2) acres in size and when the property to be subdivided is not a premises having service available; and

(5) For new commercial or industrial development (not involving a subdivision of property) on parcels or lots existing on the effective date of this chapter when such parcel or lot is not defined as premises having service available.

(c) In all cases other than those listed in paragraph (b) of this section, public water shall be provided. Except as provided in paragraph (d) of this section, all private wells or water systems shall be constructed, expanded, or enlarged only in accordance with the requirements of this chapter and the Health Department for public water systems.

(d) For developments described in paragraph b(4) above containing or proposed to contain in the future ten (10) lots or more and for development described in paragraph b(5) above when the structures are proposed to exceed 20,000 square feet in the aggregate, a source of water and facilities necessary to satisfy the fire protection requirements of the county shall be installed in addition to any other applicable requirements.

(e) The county may negotiate with a developer of any private water system for the acquisition and maintenance of such system upon or after the completion of construction. Such acquisition by the county may be in lieu of any required performance guarantee for continued operation required of the developer. Nothing in this section will be deemed to require the county to accept or operate any water system.

Section 22-82. Private sources of nonpotable water permitted.

Nothing contained in this chapter shall restrict the use of private wells, springs, or other sources for nonpotable water.

Section 22-83. Existing private water systems.

(a) Existing private water systems providing adequate potable water may continue to operate. All such operations shall be in conformance with all applicable Federal, State, and local requirements. Such systems shall not be extended or enlarged to service additional areas without the approval of the governing body and then only if the entire system meets, or is improved to meet, the standards established pursuant to this chapter for facilities of the county.

(b) The governing body, at its discretion, may acquire existing private water systems when it has been determined by the governing body that such acquisition is in the best interest of the county and system users.

Section 22-84 through 22-85. Reserved for future legislation.

ARTICLE IV. CONSTRUCTION AND EXTENSION OF PUBLIC WATER SYSTEMS

Section 22-86. Standards and regulations generally.

The standards and regulations established pursuant to Section 22-3 of this chapter shall be subject to and in accordance with the following:

(a) All facilities of the county shall be constructed in accordance with such standards and regulations.

(b) Where such standards or regulations are more stringent than standards or regulations promulgated by regulatory agencies of the Federal or State governments, the county's shall govern. Where the county standards or regulations are less stringent, Federal or State standards or regulations shall govern.

(c) In the absence of applicable standards or regulations approved by the governing body or promulgated by the State, the county administrator may establish such interim standards or regulations as the county administrator deems necessary. Such standards or regulations shall be submitted to the governing body within one hundred eighty (180) days after establishment for approval and shall stand until the governing body actually approves, disapproves, or modifies such interim standards or regulations.

(d) No design standards shall apply to facilities designed and approved prior to the establishment of such standards.

Section 22-87. Application, certificate to construct, inspection and payment of fees required.

(a) Construction of or extensions to public water systems shall not begin until a certificate to construct has been issued by the county administrator. The construction of building water piping or private water systems which serve multiple dwellings or structures or which extend off site shall also require a certificate to construct.

(b) Applications for a certificate to construct shall be submitted to the county and accompanied by a minimum of four (4) copies of plans and specifications prepared by a qualified licensed engineer or land surveyor practicing within the areas of competence prescribed by Section 54.1-400 et seq, Code of Virginia, together with any other relevant contract documents and a plan review fee of fifty dollars ($50.00).

(c) Upon approval of the plans, specifications, and contract documents and upon payment of required inspection fees, the county administrator shall issue a certificate to construct.

(d) A certificate to construct shall not be issued until inspection fees in the amount of $200.00 plus $1.00 per foot for every foot of water main installed have been paid. The fees set forth in this subsection may not be reduced and are not refundable. The fees set forth in this subsection (except those for building water piping required by Section 22-22 of this chapter) do not apply if the extension is being constructed for immediate transfer to the City of Newport News, the City of Williamsburg, or the James City Service Authority for operation and maintenance.

(e) The installation of water facilities required to have a certificate to construct shall be inspected by the county and no part of such facilities shall be covered or obscured prior to inspection and approval by the county. Inspection is not required for facilities constructed for immediate transfer to the City of Newport News, the City of Williamsburg, or the James City Service Authority for operation and maintenance.

(f) Water service lines, as approved, shall be provided by the applicant and installed at the time of construction.

(g) No connection between the existing public water system and new water system construction shall be made until all required connection fees have been paid and all such construction (or design as the case may be) has been approved by the county.

Section 22-88. Construction and extension.

(a) The governing body may in its discretion extend public water to areas of the county which have not been previously served.

(b) The governing body may permit the extension or construction of the facilities of the county by a developer. All such extensions shall be at the request of the developer and shall be made pursuant to a contract between the developer and the county authorized by the governing body, executed by the county administrator on behalf of the county, and approved as to form by the county attorney. The contract shall include terms providing for the amount of all fees to be paid to the county and providing that the fees may be paid in a lump sum or in four (4) installment payments over a two (2) year period, with the first installment payment due prior to any connections to the existing system. Subsequent installment payments are to be paid at eight (8) month increments. In no case shall the number of building permits issued by the county exceed the number of

connection fees paid by the developer. The contract shall also set forth any cost sharing and provide that, upon completion and approval of the construction of such facilities, they shall become the property of the county. Such contracts shall be executed by all parties prior to the issuance of a certificate to construct. The provisions of this subparagraph apply to extensions which have not been approved by the county on the date of adoption of this chapter. The governing body may authorize an extension based on preliminary fee and cost-sharing information, and may authorize the county administrator to execute agreements required by this section at some later time, provided, however: (1) that the number of connections to the system approved by the governing body shall not later be increased more than ten percent (10%) without authorization of the governing body; and (2) that the standard connection fees, credits, and other fees and policies in effect at the time of execution of the agreement, as established by the governing body, shall be the basis for computing such fees.

(c) The governing body may permit the extension of public water systems other than facilities of the county by a developer if such extension is found to be in accordance with future water availability, the comprehensive plan of the county, and is in the best interest of county citizens. All such extensions shall be at the expense of the developer or others pursuant to arrangements made with the owner of the system. The county administrator shall present such request to the governing body with a recommendation for approval or denial as soon as practicable after receipt. The county administrator shall not issue a certificate to construct for such an extension until approved by the governing body.

(d) All contractors installing facilities of the county shall be approved by the county.

(e) For all construction under paragraph (b) and (c) of this section, the location, type, and size of any facility must comply with county standards and with plans established by the county for future construction. Except as provided in Section 22-90, the entire expense of construction shall be borne by the developer. The provisions of paragraph (b) of this section shall only apply to extensions proposed to facilities of the county, the construction of which was completed on or after January 1, 1988.

Section 22-89. Construction of public pump and well systems.

When public water service is required by this chapter and an extension of an existing public water system is not feasible, a developer may propose the construction of a pump and well system, or other water supply system, to be dedicated to and become a facility of the county for approval by the governing body. The developer shall submit such information as may be requested by the county to evaluate the proposal. If approved, the developer shall enter into an agreement with the county to construct the facilities in accordance with all county requirements and to convey the system together with all necessary easements and right-of-ways to the county upon completion and approval. The agreement shall include terms providing for the amount of any fees to be paid to the county and shall also set forth any cost sharing involved. Such agreements shall be authorized by the governing body, executed by the county administrator on behalf of the county and approved as to form by the county attorney. Such agreements shall be executed by all parties prior to the issuance of a certificate to construct.

Section 22-90. Cost sharing in water system construction.

(a) It is the intent of this section to discourage the development of facilities outside designated primary service areas and to provide some assistance to a developer when facilities are constructed in accordance with public water phasing and construction plans. Recognizing that the

developer will incur a certain level of expense to properly provide water service to a development, the intent is not to reimburse the developer for that expense. In all cases the developer must make an economic decision. The purpose of this section is to provide a degree of certainty to the cost of water service and to set forth those conditions under which the county will permit private construction of the facilities of the county.

(b) Upon request and under certain conditions, the county may share in the cost of providing water service when application for construction is made by a developer. The extent to which the county participates will be based on certain factors designed to maximize and channel limited public funds for water construction into those areas where water can be provided most effectively to promote the public health and welfare. Those factors are:

(1) The extent to which water facilities are oversized at the request of the county to provide future use capacity;

(2) The extent to which the proposed development is within a designated primary service area;

(3) The extent to which the facilities consist of system facilities as opposed to local facilities.

(c) Within the limits of funds available for water construction, the county will share costs if requested by the developer as follows:

(1) The total cost of local facilities shall in all cases be borne by the developer.

(2) When proposed development is to be located within a primary service area, the county will pay the additional construction cost of installing or oversizing system facilities required by the county for future use capacity or other needs. The county may offset its cost by deducting any system facility connection fees due to it from the developer. The county's share shall be the difference between the estimated cost of the facilities necessary for future use and the cost of local facilities and system upgrades necessary under county standards to serve the development. The developer shall bear all design costs. The estimated costs shall be based upon current charges for water construction and shall be agreed to between the developer and the county.

(3) When proposed development is to be located outside a primary service area, the cost of installing or oversizing system facilities for future use capacity or other needs shall be borne by the developer. In addition to the cost of construction, the developer will be liable for a connection charge at the time of connection of the extension to public water facilities. Such fee shall be equal to the total initial connection fees due from the development without credit or reduction for the construction of local or system facilities or other costs paid by the developer.

(4) If no primary service areas have been established by the governing body, all proposed development shall be deemed to be within a primary service area.

(d) If sufficient county funds are not available for water construction to enable the county to contribute fully as set forth in subsection (c) (2), then other sums may be negotiated on a case-by-case basis. In any event, the final sum to be contributed by the county to the construction and/or the total amount of connection fees due to the county, shall be set forth in the contract required by Sections 22-88 or 22-89.

(e) Nothing in this section is to be construed to prohibit or restrict the governing body from extending or participating in the extension or construction of public water systems at the county's cost or on a different cost sharing basis than set forth in this section should the governing body determine that such an arrangement is in the county's best interest and furthers economic development, the provision of affordable housing opportunities, or other county priorities.

Section 22-91 through 22-95. Reserved for future legislation.

ARTICLE V. PUBLIC WATER CONNECTIONS AND CONNECTION FEES

Section 22-96. When connection or payment deemed made.

Connection shall be deemed made under this article when all fees have been paid and actual connection, or an arrangement approved by the county for connection, has been made. Fees shall be deemed paid when actually paid or when arrangements for payment have been made through a contract with the county.

Section 22-97. Connection requirements, timing, and fees.

(a) Any person desiring to connect to facilities of the county shall pay the fees set forth in this article prior to making connection to such facilities. Connection to any public water system shall be voluntary for all premises qualifying under Section 22-81(b) of this chapter, and mandatory for all others.

(b) Where the county currently owns the public water system or the governing body on or after January 1, 1988, has completed the extension of, or participated financially in the extension of, public water to areas of the county which have not previously been served, the owner of any premises desiring to be served shall pay a connection fee as set forth in Section 22-99 of this chapter. If paid within ninety (90) days of notification that service exists the fee shall be the initial fee set forth in Section 22-99. After such time the regular connection fee shall apply except to those connections to facilities of the county which were completed after January 1, 1988, and prior to January 1, 1989, and in those cases the initial connection fee shall continue to be charged.

(c) On or after January 1, 1996, when a developer extends facilities owned by the county or, facilities of the county, which facilities of the county were completed after January 1, 1988, and are no longer owned by the county, the owner of any premises desiring to be served shall pay a system facility charge as set forth in Section 22-99 of this chapter. If paid within ninety (90) days of notification that service exists, the fee shall be the initial fee set forth in Section 22-99. After such time the regular fee shall apply.

(d) Where a developer constructs a public pump and well system pursuant to Section 22-89, the developer shall pay to the county at the time of dedication an initial system facility charge as set forth in Section 22-99 for each proposed connection to the system.

(e) Where the county purchases or acquires an existing water system after January 1, 1996, and the system is to be upgraded to meet county standards, an initial connection fee shall be paid by all existing users within ninety (90) days of the completion of the improvements. Connections made beyond ninety (90) days shall pay the regular connection fee. For existing users, the county will

pay all charges required by the water purveyor if the water purveyor is other than the county. Service charges for water usage shall be the responsibility of the user.

(f) In all circumstances not specifically covered by this section, or other written agreements, no county connection fees will be imposed.

(g) Once an initial connection fee is paid pursuant to this section for any premises, the water connection paid for may be upgraded by paying the difference between the initial fee paid and the initial connection fee required at the time of the upgrade.

Section 22-98. Application for connection; permit required.

(a) Where payment of a fee is required by Section 22-97, no person shall connect any premises with the facilities of the county without first obtaining a permit to do so from the county administrator. The owner of the premises, or such owner's authorized agent, shall make application therefor on forms furnished by the county. All applications shall clearly indicate the activities on the premises for which the service to be rendered by the public water system will be used.

(b) No permit for connection required by this section shall be issued until all required fees have been paid and the manner of connection (including the qualifications of the person making the connection) have been approved.

(c) No permit for connection required by this section shall be issued until the construction of the facilities of the county has been completed and approved. Prior to the completion of construction, a permit may be issued if:

(1) In the case of residential buildings, the county administrator determines that completion of construction of the required public water facilities to county standards is probable within ninety (90) days; or

(2) In the case of commercial or industrial buildings, the county administrator determines that completion of construction of the required public water facilities to county standards is probable within one hundred eighty (180) days.

If permits are issued prior to the completion of the public water facilities pursuant to subsections (1) or (2) above, construction of the required public water facilities shall be secured through an agreement with the county and adequate surety posted in the form of a cash escrow or letter of credit approved as to form by the county attorney, with the terms of such agreement requiring initiation and completion and approval of such facilities within the applicable time frame; provided, however, that where the estimated construction schedule for a commercial or industrial building is greater than one hundred eighty (180) days, the county administrator may allow the terms of the above-described agreement and surety to authorize a construction schedule and completion date for the public water facilities which corresponds with the construction schedule for the commercial or industrial building.

Section 22-99. Connection fees established.

(a) Any person required or desiring to connect to the facilities of the county shall, unless otherwise provided in this chapter, pay the connection fees set forth in the schedule which follows as a part of this section. Such fees shall be paid at such time as required by this chapter. The connection fee to be paid shall be the indicated total initial fee or total regular fee as required. The connection

fee shall not include the actual cost of connection nor payments to any water supplier other than the county, all of which shall be borne by the applicant unless otherwise specifically provided in this chapter. Existing commercial or industrial connections may upgrade the connection size by paying the initial connection fee applicable to the larger size connection. A credit will be given for connection fees previously paid. Columns entitled "Local Facility Charge" and "System Facility Charge" are used only for the purposes referred to in other sections of this chapter.

CONNECTION FEE SCHEDULE

METER SIZE	I. INITIAL			II. REGULAR		
	Local Facility Charge	System Facility Charge	Total Facility Charge	Local Facility Charge	System Facility Charge	Total Facility Charge
5/8"	$1,000	$1,850	$2,850	$1,750	$3,250	$5,000
3/4"	$1,500	$2,775	$4,275	$2,625	$4,875	$7,500
1"	$2,500	$4,625	$7,125	$4,375	$8,125	$12,500
1 ½"	$5,000	$9,250	$14,250	$8,750	$16,250	$25,000
2"	$8,000	$14,800	$22,800	$13,965	$25,935	$39,900
*Larger than 2"	$50.00/GPM	$92.50/GPM	$142.50/GPM	$87.50/GPM	$162.50/GPM	$250.00/GPM

*GPM per meter size as determined by AWWA Standard

(b) In addition to connection fees, service charges will be imposed by the water purveyor based on usage.

Section 22-100. Reduction in fees due to construction by developer.

When facilities of the county are constructed by developers pursuant to section 22-88(b) of this chapter, the following reductions to total initial connection fees shall apply:

(a) When all local facilities are constructed by the developer, the developer shall receive a reduction in the total connection fee equal to the total local facilities charge component which would otherwise be due.

(b) When a developer constructs facilities to a premises and the construction includes system facilities, in addition to any reductions under paragraph (a) of this section, the developer shall receive a reduction in the system facility connection fee component, which would otherwise be due, equal to the estimated cost increase for construction of system facilities required by the county based on current charges, as set forth in section 22-90(c)(2) of this chapter. Reductions under this subsection may be prorated among all connections in the development or the developer may apply them to the first fees due, whichever is provided for in the agreement executed pursuant to section 22-88(b).

(c) Total reductions in connection fees under subparagraphs (a) and (b) of this section shall not exceed the total connection fee due.

(d) Nothing in this section shall be construed to reduce in any way the connection charge imposed by section 22-90(c)(3) for the connection of premises located outside of primary service areas.

Section 22-101. Installment payment of connection fees.

(a) Owners of single-family detached dwellings having service available may elect to pay all or part of the connection fee in installments. The connection fees provided for in this article may be paid in installments pursuant to a contract the form of which has been approved by the county attorney. Such contracts shall provide for not more than twelve (12) bimonthly installments and shall provide for interest on the unpaid balance at ten (10) percent per annum. A down payment may be made, but it shall result in a remaining balance which is a multiple of one hundred dollars ($100.00). The first bimonthly payment will be billed at the end of the next full utility billing cycle following execution of the installment contract by the owners and will be due within thirty (30) days of the billing date. The unpaid principal may be paid in full without penalty at any time.

(b) Owners of unimproved premises who choose to pay the applicable connection fee may contract to pay all or part of such fee in installments. Such contracts, which shall be approved as to form by the county attorney, shall provide for not more than eighteen (18) bimonthly installments and shall provide for interest on the unpaid balance at ten (10) percent per annum. A down payment may be made, but it shall result in a remaining balance which is a multiple of one hundred dollars ($100.00). The first bimonthly payment will be billed at the end of the next full utility billing cycle following execution of the installment contract by the owner and will be due within thirty (30) days of the billing date. The unpaid principal may be paid in full without penalty at any time.

(c) When water service is provided to an area pursuant to paragraphs (b) or (e) of Section 22-97 and public sewer service is made available or accessible concurrent with the construction of water service, owners desiring or required to connect to both utilities may contract to pay the water connection fee in installments and under the terms set forth in this subparagraph. Such contracts shall be approved as to form by the county attorney and shall provide for a down payment of at least one hundred and fifty dollars ($150.00), which down payment shall result in a remaining balance which is a multiple of one hundred dollars ($100.00). The remaining balance may be paid in bimonthly installments at any time within five (5) years of the date of the notice that sewer service exists, and interest shall not begin to accrue until two (2) years after the notice that sewer service exists is issued. Bimonthly payments shall begin no later than thirty-six (36) months after the notice that sewer service exists is issued. Once bimonthly payments begin bills will be issued in the normal utility billing cycle and shall be due and payable within thirty (30) days of the billing date. Interest, once begun, shall accrue at the rate of ten (10) percent per annum on the unpaid balance. The unpaid principal may be paid in full without penalty at any time.

For the purpose of this subsection “concurrent” means the completion of construction of both water and sewer improvements within a twelve (12) month time frame.

(d) If any installment is not paid when due, the entire remaining balance shall be immediately due and payable. In the cases where initial connection fees were charged pursuant to section 22-97(b) or (c) or (e) of this chapter, the initial connection fee shall be forfeit and the regular connection fee, against which the previously paid principal shall be credited, shall be immediately due and payable.

(e) This section shall not apply to connection fees due from developers who extend public water pursuant to section 22-88(b) of this chapter.

Section 22-102. Notice of availability of water service.

When service is hereafter made available to any premises, the county will notify property owners by first-class mail, postage paid, addressed to the owner of the property at the mailing address shown on the current Land Book of the county. The county administrator shall prepare an affidavit, or affidavits, showing the date of mailing and the names and addresses of all property owners to whom such notice is mailed. The appearance of the correct name and address as shown on the Land Book of the county on such affidavit(s) shall be all that is required to mark the beginning of the applicable time period during which initial connection fees apply. The county shall not be required to prove that such notice was actually received by any individual property owner.

Sections 22-103 - 22-105 Reserved.

ARTICLE VI. RATES AND BILLING PROCEDURES

Section 22-106. Power to establish rates and enforce payment.

(a) The governing body is vested with the authority to make and fix rates at which water shall be supplied to customers and to collect, require, and enforce the payment thereof by all remedies provided for by law.

(b) The service charges fixed by the governing body shall be fair and just and shall take into consideration the cost of construction, maintenance, extension, operation, raw water supply and administration of the public water system, including the cost of necessary insurance, interest and principal on bonds, and any other cost or expense growing out of the operation of, or appertaining to, the public water system.

(c) The service charges set forth in this article shall apply when the county is the purveyor of water to individual users or in the case of sale of water to other water purveyors for resale to individual users.

Section 22-107. Rates generally.

(a) *Payment generally*. The service charges set forth in this section shall be paid bimonthly by all users of a county water system.

(b) *Fixed minimum charge*. The following fixed minimum charges based on meter size shall be assessed in the event that the service charge does not exceed the listed minimum charge.

Meter Size	Minimum Bimonthly Charge
5/8" or 3/4"	$10.00
1"	$20.00
1 ½"	$32.00
2"	$52.00
3"	$92.00
4"	$144.00
6"	$290.00
8"	$720.00

(c) *Service charges*. For all water delivered the following charges shall apply:

Effective Date	Rate/1000 Gal.	Rate/100 Cubic Feet
1/1/96	$2.50	$1.87
1/1/97	$2.65	$1.98
1/1/98	$2.75	$2.06

(d) *Prorated bills*. With respect to initial bills the fixed minimum fee will be prorated for the billing period from the time that the meter is set. Regardless of this proration, the minimum initial bill for water service shall not be less than five dollars ($5.00).

Section 22-108. When rates not prorated.

When title is conveyed from one owner to another, the service charges for the billing period in which the premises is conveyed shall not be prorated by the county and shall become the obligation of the owner of the property on the first day of the billing period in which service was rendered.

Section 22-109. Responsibility of owner for charges.

Where any premises, whether supplied by single or multiple service, is rented to one or more tenants, service charges shall be charged to and paid by the owner of the premises, who alone shall be deemed the agent for the entire premises and who shall sign the application for service.

Section 22-110. Application for service; deposit required.

(a) Any applicant desiring service from the county shall file a signed application therefor with the county on the prescribed form. The written application shall serve as a contract with the county in which the applicant agrees to pay for all service and to observe, comply with, and be bound by all ordinances, rules, regulations, terms and conditions prescribed for and related to the use of the public water system.

(b) No new or reinstated service shall be supplied to any applicant until payment of a cash deposit equal to the estimated charge for one bimonthly billing period. The deposit shall be held by the county until such applicant ceases to be served by the system at which time any portion of such deposit due shall be returned without interest to the applicant by whom it was made, provided that all unpaid charges and fees shall be deducted from the amount of the deposit. If the deposit is not sufficient to pay all charges and fees due, the remaining balance shall be subject to normal collection procedures of the county. A deposit shall not be required for single-family dwelling units except in the case of rental units which are master metered as one connection.

Section 22-111. Previous balance to be paid prior to new service or transfer of service.

In the event that any person applies for water service while owing a balance for water service previously furnished, regardless of the length of time the same has been owing, water service shall not be furnished until all amounts in connection with past water services furnished have been paid in full.

Section 22-112. When bills to be paid; overdue accounts.

(a) Water service charges shall be due upon receipt of the statement rendered by the county and shall be considered delinquent thirty (30) days following the billing date. A late charge of ten (10) percent of the amount due or ten dollars ($10.00), whichever is greater, shall be added to all service charges when they are first considered delinquent. Interest at the rate of ten (10) percent per annum shall be charged on the aggregate of the payment and penalty due beginning with the date the penalty is applied. If any bills shall not be paid within forty-five (45) days of the billing date, the water supply to the premises shall be discontinued as provided for in section 22-115 of this chapter.

(b) In lieu of discontinuing water service as provided for in paragraph (a) of this section, the county administrator may enter into agreements by which the owners of the premises for which bills for service are unpaid may be allowed to pay the amount owed including the penalty and interest owed in installment payments, such agreements to contain such other reasonable terms and conditions as may be necessary to ensure payment, and to be approved as to form by the county attorney. Such agreements shall provide that late payment of any installment payment or a failure to pay current amounts due shall result in immediate discontinuance of the water supply to the premises.

(c) Any unpaid water connection fee or any installment thereof, or any unpaid service charge, together with any penalty and interest, shall become a lien superior to the interest of any owner, lessee, or tenant, and next in succession to county taxes on the real estate benefitted by any such facilities. Such lien may be discharged by payment to the county of the total amount of such lien, together with penalty and interest accrued thereon to the date of payment. If any such charges remain unpaid for a period of sixty (60) days from the billing date, the county administrator shall within thirty (30) days certify such charges as being unpaid to the Clerk of the circuit court, who shall docket the same in the appropriate lien books of the circuit court.

(Ord. No. 08-5, 5/20/08)

Section 22-113. Failure to receive bill no excuse.

Failure to receive a bill for service charges shall not exempt any person from liability for payment of bills or from the provisions of this chapter. It shall be the responsibility of the owner, occupant, or consumer to notify the county of the failure to receive a bill for any reason and to advise the county whenever it is suspected that charges for services used are improperly billed.

Section 22-114. Charge to be assessed for checks returned from bank for insufficient funds or other reasons.

When a check received in payment of service charges or in payment of deposits, connection fees, or other fees is returned by the bank for insufficient funds or any other reason, a service charge of ten dollars ($10.00) shall be made for each returned check. This charge is to defray the administrative costs to the county of handling and processing returned checks.

Section 22-115. Discontinuing water service for nonpayment of service charges.

(a) Water service may be discontinued by or at the request of the county for any of the following reasons until the defects or faults have been corrected:

(1) For nonpayment of service charges as provided in Section 22-112 of this chapter.

(2) For violation or noncompliance of any provision of this chapter or with any State Health Department regulation or requirement.

(b) When water service is to be discontinued, except in emergency situations involving an imminent risk to property or public health, in which event no notice shall be necessary, ten (10) days' written notice shall be given to the owner, occupant, or agent of the owner. The notice shall state the reason for the proposed termination and shall inform the person notified that a hearing to protest the termination may be had before the county administrator during the ten-day notice period if requested in writing by the owner, occupant, or agent of the owner. If a hearing is requested, the county administrator shall conduct it immediately and shall enter a written decision within twenty-four (24) hours of the hearing. Water service shall be terminated unless the owner, occupant, or agent presents clear and convincing evidence that violation or nonpayment has not occurred or unless such termination would impose a serious risk of harm to the occupants of the premises and not merely an inconvenience. The decision of the county administrator shall be final.

(c) If water service is discontinued as provided in this section, a fee of thirty dollars ($30.00) shall be payable to the county for restoration of service.

(d) When water service has been discontinued, the health department shall be notified and service will be renewed only when the conditions for which such service was discontinued are corrected and all fees and charges have been paid.

Section 22-116. Adjusting of bill for inaccurate water meter.

Upon presentation of satisfactory evidence by the user that water meter readings upon which any service charge was based were inaccurate, the county shall adjust the service charge to reflect the inaccuracy of the water meter reading.

Sections 22-117 - 22-122. Reserved.

CODE OF THE COUNTY OF YORK

Chapter 22.3

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CODE OF THE COUNTY OF YORK

Chapter 23.1

WETLANDS*

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*__Cross reference—__Building regulations, Ch. 7.1; erosion and sediment control, Ch. 10; public areas; Ch. 17; subdivisions Ch. 20.5; zoning Ch. 24.1.

Sec. 23.1-1. Adopted.

The board of supervisors, acting pursuant to chapter 13 of title 28.2, Code of Virginia, for the purposes of fulfilling the policy standards set forth in such chapter, adopts this chapter regulating the use and development of wetlands.

Sec. 23.1-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

Commission. The Virginia Marine Resources Commission.

Commissioner. The Commissioner of Marine Resources.

Enforcement officer. A person designated by the wetlands board to enforce this chapter.

Governmental activity. Any of the services provided by this county to its citizens for the purpose of maintaining public facilities including but not limited to, such services as constructing, repairing and maintaining roads, sewage facilities and street lights, supplying and treating water and constructing public buildings.

Nonvegetated wetlands. All the land lying contiguous to mean low water and which land is between mean low water and mean high water not otherwise included in the term “vegetated wetlands,” as defined herein.

Person. Any individual, corporation, association, partnership, company, business, trust, joint venture or other legal entity.

Vegetated wetlands. All that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half (1½) times the mean tide range at the site of the proposed project in this county and upon which is growing on the effective date of this article or grown thereon subsequent thereto, any one or more of the following: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), saltgrass (Distichlis apicata), black needlerush (Juncus roemerianus), saltwort (Salicornia sp.), sea lavender (Limonium sp.), marsh elder (Iva frutescens), groundsel bush (Baccharis hamilifolia), wax myrtle (Myrica sp.), sea oxeye (Borrichia frutescens), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), sea rocket (Cakile edentula), southern wildrice (Aizaniopsis miliacea), cattail (Typha spp.), three-square (Scirpus spp.), buttonbush (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Nyssa sylvatica), tupelo (Nyssa aquatica), dock (Rumex sp.), yellow pond lily (Nuphar sp.), marsh fleabane (Pluchea purpurascens), royal fern (Osmunda regalis), marsh hibiscus (Hisbiscus moscheutos), beggar's tick (Bidens sp.), smartweed (Polygonum sp.) arrowhead (Sagittaria spp.), sweet flag (Acorus calamus), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), and switch grass (Panicum virgatum).

Wetlands. Both vegetated and nonvegetated wetlands.

Wetlands board or *board*. A board created as provided in section 28.2-1303, Code of Virginia.

Sec. 23.1-3. Wetlands board—Generally.

(a) There is hereby continued a wetlands board, which shall consist of five (5) residents of the county appointed by the board of supervisors. All terms of office shall be for five (5) years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The chair of the board shall notify the board of supervisors at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the board of supervisors promptly if any vacancy occurs. Such vacancies shall be filled by the board of supervisors without any delay, upon receipt of such notice. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may serve successive terms. A member whose term expires shall continue to serve until his/her successor is appointed and qualified. Members of the board shall hold no other public office in the county, except that they may be members of the local planning or zoning commission, members of a board established by the local governing body to hear cases regarding ordinances adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated thereunder, directors of soil and water conservation boards, or local erosion commissions, or on the local board of zoning appeals. Where members of these local commissions or boards are appointed to a local wetlands board, their terms of appointment shall be coterminous with their membership on those boards or commissions. The board of supervisors shall also appoint at least one but not more than three alternate members to the wetlands board. The qualifications, terms, and compensation of alternate members shall be the same as those of members. Any member who knows that he will not be able to attend a board meeting shall notify the chairman at least 24 hours in advance of such meeting. The chairman shall select an alternate member to serve in place of the absent member at the board meeting, which shall be noted in the records of the board.

(b) Upon a hearing with at least fifteen (15) days notice thereof, any board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the board of supervisors.

(Ord. No. 04-14, 8/3/04; Ord. No. 06-1, 1/17/06)

Sec. 23.1-4. Officers, meetings, rules, records and reports.

The board shall annually elect from its membership a chair and such other officers as it deems necessary, who shall serve one-year terms. For the conduct of any hearing and the taking of any action, a quorum shall be not less than three (3) members of the five (5) member board. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the county and general laws of the commonwealth, including chapter 13, title 28.2, Code of Virginia. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the board of supervisors at least once each year, and a copy of its report to the commission.

Sec. 23.1-5. Meeting space and services.

The board of supervisors shall supply reasonable meeting space for the use of the board and such reasonable secretarial, clerical, legal and consulting services as may be needed by the board.

Sec. 23.1-6. Permitted uses and activities.

The following uses of and activities on wetlands are permitted, if otherwise permitted by law:

(a) The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures; provided, that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands:

(b) The cultivation and harvesting of shellfish, and worms for bait;

(c) Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting preserves;

provided, that no structure shall be constructed except as permitted in subsection (a) of this section;

(d) The cultivation and harvesting of agricultural, forestry or horticultural products; grazing and haying;

(e) Conservation, repletion and research activities of the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, the Virginia Department of Game and Inland Fisheries and other related conservation agencies;

(f) The construction or maintenance of aids to navigation which are authorized by governmental authority;

(g) Emergency decrees of any duly appointed health officer of a governmental subdivision acting to protect the public health;

(h) The normal maintenance, repair or addition to presently existing roads, highways, railroad beds, or facilities abutting on or crossing wetlands; provided, that no waterway is altered and no additional wetlands are covered;

(I) Governmental activity on wetlands owned or leased by the Commonwealth of Virginia, or a political subdivision thereof;

(j) The normal maintenance of man-made drainage ditches; provided, that no additional wetlands are covered; and provided further, that this subdivision shall not be deemed to authorize construction of any drainage ditch; and

(k) Other outdoor recreational activities; provided, that such activities do not impair the natural functions of the wetlands or alter the natural contour of the wetlands.

Sec. 23.1-7. Permit required; application generally; processing fee.

(a) Any person who desires to use or develop any wetland within this county, other than for those activities specified in section 23.1-6, shall first file an application for a permit with the wetlands board, directly or through the commission.

(b) The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activity and a map, drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, the location of the proposed work thereon, indicating the area of existing and proposed fill and excavation, especially the location, width, depth and length of any proposed channel and the disposal area, all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands, and a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project or structure; and such additional materials and documentation as the wetlands board may deem necessary. The seaward limits of the proposed structure shall be staked in the field prior to the Wetlands Board site inspection.

(Ord. No. O99-14(R), 10/6/99)

(c) A nonrefundable processing fee of one hundred dollars ($150.00) to cover the cost of processing the application, set by the board of supervisors with due regard for the services to be rendered, including the time, skill, and administrator's expense involved, shall accompany each application; provided, however, that when an applicant for a permit has begun an unpermitted use of wetlands prior to making application for the necessary permit, the application processing fee shall be two hundred dollars ($250.00) in order to offset the additional time and expense involved in properly processing the application.

Sec. 23.1-8. Permits required for certain activities.

It shall be unlawful for any person to conduct any activity which would require a permit pursuant to this chapter without such a permit.

Sec. 23.1-9. Public hearing on application.

Not later than sixty (60) days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, the board of supervisors, the commissioner, the owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, the Water Control Board, the Department of Transportation and governmental agencies expressing an interest therein shall be notified by the board of the hearing, by mail, not less than twenty (20) days prior to the date set for the hearing. The wetlands board shall also cause notice of such hearing to be published at least once a week for two weeks prior to such hearing in a newspaper having a general circulation in this county. Every such advertisement shall contain a reference to the place or places within the county where copies of the proposed application may be examined. The costs of such publication shall be paid by the applicant.

Sec. 23.1-10. Public inspection of application.

All applications, and maps and documents relating thereto, shall be open for public inspection at the department of environmental and development services and as specified in the advertisement for public hearing required under section 23.1-9 of this chapter.

Sec. 23.1-11. Factors to be considered in making decision.

(a) In fulfilling its responsibilities under this chapter, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation.

(b) In making its decision whether to grant, to grant in modified form, or to deny an application for a permit, the board shall consider the following:

(1) Such matters raised through the testimony of any person in support of or in opposition to the permit application;

(2) Impact of the development on the public health, safety, and welfare; and

(3) The proposed development's conformance with the standards prescribed in section 28.2-

1308, Code of Virginia and guidelines which may have been promulgated pursuant to section 28.2-1301, Code of Virginia.

(c) The board shall grant the permit if all of the following criteria are met:

(1) The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.

(2) The proposed development conforms with the standards prescribed in section 28.2-1308, Code of Virginia and guidelines promulgated pursuant to section 28.2-1301, Code of Virginia.

(3) The proposed activity does not violate the purposes and intent of this chapter or chapter 13 of Title 28.2, Code of Virginia.

(d) If the board finds that any of the criteria listed in this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

Sec. 23.1-12. Grant or deny application.

(a) In acting on any application for a permit, the board shall grant the application upon the concurring favorable vote of three (3) of its members. The chair of the board, or in the chair's absence the acting chair, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his/her testimony. The board shall make a record of the proceedings, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision. The board shall make its determination within thirty (30) days from the hearing. If the board fails to act within such time, the application shall be deemed approved. Within forty-eight (48) hours of its determination, the board shall notify the applicant and the commissioner of its determination. If the board fails to make a determination within the thirty-day period, it shall notify the applicant and the commission that thirty (30) days have passed and that the application is deemed approved. The term “act” referenced above shall be the action of taking a vote on the application. If the application receives less than three (3) affirmative votes, the permit shall be denied.

(b) The board shall transmit a copy of the permit to the commissioner. If the board's decision is reviewed or appealed, then the board shall transmit the record of its hearing to the commissioner. Upon a final determination by the commission, the record shall be returned to the board. The record shall be open for public inspection at the department of environmental and development services.

Sec. 23.1-13. Time for issuance of permit.

No permit shall be issued until the period within which a request for review or an appeal to the commission may be made has expired. If a request for review is made or an appeal is noted, no activity for which the permit is required shall be commenced until the commission has notified the parties of its determination.

Sec. 23.1-14. Permit not to affect zoning.

No permit granted by the wetlands board shall affect in any way the applicable zoning and land use ordinances of this county or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

Sec. 23.1-15. Standards for use and development of wetlands; utilization of guidelines.

(a) The following standards shall apply to the use and development of wetlands and shall be considered in the determination of whether any permit required by this chapter should be granted or denied:

(1) Wetlands of primary ecological significance shall not be altered so that the ecological systems in the wetlands are unreasonably disturbed; and

(2) Development in the county, to the maximum extent practical, shall be concentrated in wetlands of lesser ecological significance, in vegetated wetlands which have been irreversibly disturbed before July 1, 1972, in nonvegetated wetlands which have been irreversibly disturbed prior to January 1, 1983, and in areas outside of wetlands.

(b) The provisions of guidelines promulgated by the commission pursuant to section 28.2-1301, Code of Virginia shall be considered in applying the standards listed in this chapter.

Sec. 23.1-16. Bond or letter of credit; suspension or revocation of permit.

The board may require a reasonable bond or letter of credit, in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after hearing as provided herein, suspend or revoke a permit if the board finds that the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The board, after a hearing, may suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Sec. 23.1-17. Form of permit.

The permit shall be in writing, signed by the chair of the board and notarized. A copy of the permit shall be transmitted to the commissioner.

Sec. 23.1-18. Expiration of permit.

No permit shall be granted without an expiration date established by the board. The board, however, may, upon proper application therefor, grant permit extensions.

Sec. 23.1-19. Investigations and prosecutions.

The wetlands board may investigate all projects, whether proposed or ongoing, which alter wetlands

located within the county. The wetlands board may prosecute all violations of such orders of such board, or and any violation of any provision of this chapter.

Sec. 23.1-20. Monitoring, inspections, compliance, and restoration.

(a) The wetlands board chair may require a permittee to implement monitoring and reporting procedures the chair believes are reasonably necessary to ensure compliance with the provisions of the permit and this chapter.

(b) The wetlands board chair may require such on-site inspections as the chair believes are reasonably necessary to determine whether the measures required by the permit are being properly performed, or whether the provisions of this chapter are being violated. Prior to conducting any inspection, the wetlands board chair shall provide notice to the resident owner, occupier, or operator, who shall be given an opportunity to accompany the site inspector. If it is determined that there is a failure to comply with the permit, the wetlands board chair shall serve notice upon the permittee at the address specified in his/her permit application or by delivery at the site of the permitted activities to the person supervising those activities and designated in the permit to receive the notice. The notice shall describe the measures needed for compliance and the time within which these measures shall be completed. Failure of the person to comply within the specified period is a violation of this section.

(c) Upon receipt of a sworn complaint of a substantial violation of this chapter from the designated enforcement officer, the wetlands board chair may, in conjunction with or subsequent to a notice to comply as specified in this section, issue an order requiring all or part of the activities on the site to be stopped until the specified corrective measures have been taken. In the case of an activity not authorized under this chapter or where the alleged permit noncompliance is causing, or is in imminent danger of causing, significant harm to the wetlands protected by this chapter, the order may be issued without regard to whether the person has been issued a notice to comply pursuant to this section. Otherwise, the order may be issued only after the permittee has failed to comply with the notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority, permittee, resident owner, occupier, or operator for appropriate relief to the circuit court of the county. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the wetlands board chair from taking any other action specified in section 28.2-1316, Code of Virginia.

(d) Upon receipt of a sworn complaint of a substantial violation of this chapter from a designated enforcement officer, the wetlands board may order that the affected site be restored to predevelopment conditions if the board finds that restoration is necessary to recover lost resources or to prevent further damage to resources. The order shall specify the restoration necessary and establish a reasonable time for its completion. The order shall be issued only after a hearing with at least thirty (30) days' notice to the affected person of the hearing's time, place, and purpose, and shall become effective immediately upon issuance by the board. The board shall require any scientific monitoring plan it believes necessary to ensure the successful re-establishment of wetlands protected by this chapter and may require that a prepaid contract acceptable to the board be in effect for the purpose of carrying out the scientific monitoring plan. The board may also require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it securing to the Commonwealth compliance with the conditions set forth in the restoration order. The appropriate court, upon petition by the board, may enforce any such restoration order by injunction, mandamus, or other appropriate remedy. Failure to complete the required restoration is a violation of this chapter.

(e) The duties of the wetlands board chair may be delegated to a designee; however, this designee shall not be a designated enforcement officer.

Sec. 23.1-21. Violations.

Any person who knowingly, intentionally, negligently or continually violates any order, rule or regulation of the wetlands board or violates any provision of a permit granted by the wetlands board pursuant to this chapter shall be guilty of a Class 1 misdemeanor. Following a conviction, every day the violation continues shall be deemed a separate offense.

Sec. 23.1-22. Injunctions.

Upon the petition of the wetlands board to the circuit court of the county where any act is done or threatened which is unlawful under this chapter the court may enjoin the unlawful act and order the defendant to take any necessary steps to restore, protect, and preserve the wetlands involved. This remedy shall be exclusive of and in addition to any criminal penalty which may be imposed under section 23.1-23.

Sec. 23.1-23. Penalties.

(a) Without limiting the remedies which may be obtained under this chapter, any person who violates any provision of this chapter or who violates or fails, neglects, or refuses to obey any wetlands board notice, order, rule, regulation, or permit condition authorized by this chapter shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county, for the purpose of abating environmental damage to or restoring wetlands therein, in such a manner as the court may, by order, direct, except that where the violator is the county itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(b) Without limiting the remedies which may be obtained under this chapter, and with the consent of any person who has violated any provision of this chapter or who has violated or failed, neglected, or refused to obey any wetlands board order, rule, regulation, or permit condition authorized by this chapter, the wetlands board may provide, in an order issued by the wetlands board against such person, for the one-time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars ($10,000) for each violation. Civil charges shall be in lieu of any appropriate civil penalty which could be imposed under this section. Civil charges may be in addition to the cost of any restoration ordered by the wetlands board.

CODE OF THE COUNTY OF YORK

Chapter 23.2

Chesapeake Bay Preservation Areas

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Sec. 23.2-1. Statement of intent.

In accordance with the objectives of the comprehensive plan, and pursuant to the authority of Section 10.1-2100 et seq. of the Code of Virginia, this chapter is established and intended to promote the proper use, management and protection of the vast amounts of sensitive and unique lands which contribute to the economy of the region and the environmental quality of the county and especially the Chesapeake Bay. Specifically, these provisions are intended to implement the requirements of the Chesapeake Bay Preservation Act and to address the following objectives:

(a) Protect existing high quality state waters;

(b) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;

(c) Safeguard the clean waters of the Commonwealth from pollution;

(d) Prevent any increase in pollution;

(e) Reduce existing pollution; and

(f) Promote resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.

The effect of these provisions is not necessarily to preclude development or use of such areas but rather to ensure that the types of development permitted by the underlying zoning district will be undertaken with a deliberate and professionally responsible recognition of the particular environmental qualities and conditions of a proposed development site.

Sec. 23.2-2. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

Buffer Guidelines. Guidelines established in accordance with section 23.2-5 below that provide guidance concerning permissible activities within the resource protection area buffer.

Best management practices (BMPs). A practice, or a combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

CBPA Manager. The County Administrator, or his designated agent, who shall be responsible for certain reviews, analyses and decisions as specified in this chapter.

Chesapeake Bay Board, York County. The York County Chesapeake Bay Board shall be that board established pursuant to section 23.2-2.1 below.

Chesapeake Bay Preservation Area (CBPA). Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations, (9 VAC 10-20-70 et seq.), and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Protection Area (RPA) and a Resource Management Area (RMA).,

Chesapeake Bay Preservation Area Map (CBPA Map). A map to be used as a guide that shows the general location of CBPA areas. The map is on file in the office of the CBPA Manager and is hereby adopted by reference and declared to be part of this chapter. The Natural Resources Inventory will determine the exact boundaries of the CBPA.

Development. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.

Development review process. The process for site plan, subdivision, land disturbing and building permit review to ensure compliance with section 10.1-2109, Code of Virginia and the York County Code, prior to any clearing or grading of a site or the issuance of a building or land disturbing permit.

Floodplain. All lands which likely would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Impervious cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.

Intensely developed area (IDA). CBPAs where development is concentrated and meets the conditions outlined in 9VAC 10-20-100 and so indicated on the CBPA map adopted by the Board of Supervisors and approved by the Chesapeake Bay Local Assistance Board.

Nonpoint source pollution. Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land use and development.

Nontidal wetlands. Those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the US Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time.

Noxious weeds. Weeds that are difficult to control effectively such as Johnson Grass, Kudzu, and multiflora rose.

Public Road. A publicly owned road and the appurtenant structures designed and constructed by the Virginia Department of Transportation.

Redevelopment. The process of developing land that is or has been previously developed.

Resource Management Area (RMA). That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area or the Intensely Developed Area. The RMA is contiguous to and 500-feet landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.

Resource Protection Area (RPA). That component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100-feet in width located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

Silvicultural Activities. Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.

Tidal shore (shore). Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands. Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

Water Body with Perennial Flow. A body of water flowing in a natural or manmade channel year-round during a year of normal rainfall. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or canals constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and

groundwater is the primary source for stream flow.

Water-dependent facility. A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat-docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

Wetlands. Includes tidal and nontidal wetlands.
(Ord. No. 09-25(R), 11/17/09)

Sec. 23.2-2.1. Chesapeake Bay Board established. (Effective February 1, 2010)

(a) There is hereby established the York County Chesapeake Bay Board, which shall be comprised of seven regular members and two alternates named by the board of supervisors. There shall be one member appointed from each district, and two at-large members. At the time of their initial appointment, the board shall appoint one member to serve a one-year term, two members to serve two-year terms, two members to serve three-year terms, two members to serve terms of four years, and two alternate members to serve four-year terms. Thereafter, successors shall be appointed to terms of four years. No person shall be appointed to more than two successive full terms of four years, not taking into account initial appointments of less than four years. In the event of a vacancy, the board of supervisors shall appoint an individual to serve the remainder of an unexpired term. At its first meeting, and thereafter annually at its first meeting in each calendar year, the Chesapeake Bay Board shall select from among its regular members a chair and a vice-chair. The chair, or the vice-chair in the chair's absence, shall preside at meetings. Members of the Chesapeake Bay Board may be removed from their office at any time by the board of supervisors.

(b) In the event a regular member is unable to attend a meeting or knows that he will have to abstain from consideration of the matters being presented, such member shall notify the chair, who shall select an alternate to attend and serve in such regular member's place, and the records of the Chesapeake Bay Board shall so state.

(Ord. No. 09-25(R), 11/17/09)

Sec. 23.2-3. Applicability.

The special provisions established in this chapter shall apply to the areas designated by the Board of Supervisors as Chesapeake Bay Preservation Areas (CBPA) composed of Resource Protection Areas (RPA), Resource Management Areas (RMA) and Intensely Developed Areas (IDA). Such areas are designated, in general, on the CBPA Map, which is hereby adopted and made a part of this chapter by reference. The CBPA Map shows only the general location of the Chesapeake Bay Preservation Areas. It should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity; however, the specific onsite location of the Chesapeake Bay Preservation Areas shall be delineated by the Natural Resources Inventory as required by section 23.2-6, below.

Sec. 23.2-4. Use regulations.

Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, as established by Chapter 24.1, Zoning, of this Code.

Sec. 23.2-5. Policies and Guidelines for Administering Chesapeake Bay Preservation Areas.

The CBPA Manager shall prepare such policies and guidelines not inconsistent with this chapter as may be necessary to ensure the proper use, management, and protection of the designated Chesapeake Bay Preservation Areas. Such policies and guidelines shall be subject to approval by the Board of Supervisors,

shall be kept on file in the CBPA Manager's office and may be amended by resolution of the Board from time to time as conditions warrant. In the event situations arise that necessitate adjustments or supplements to such policies, the CBPA Manager may promulgate interim guidelines. Such interim guidelines shall be submitted to the Board of Supervisors within 180 days after establishment and shall stand until the Board actually approves, disapproves or modifies such interim guidelines.

Sec. 23.2-6. Natural Resources Inventory requirements.

Natural Resources Inventory: An inventory of site conditions and environmental features, prepared and submitted in accordance with the provisions established herein, shall be required for all properties proposed for development.

(a) The inventory shall be prepared and certified by a professional qualified to perform environmental inventories. Evidence of the professional qualifications of the person preparing the inventory shall be submitted as a part of the inventory. In the case of construction of individual single-family detached dwellings, the inventory shall be required; however, professional preparation or certification shall not be required except for perennial stream flow determination or unless professional involvement is deemed necessary by the CBPA Manager because of the magnitude of land disturbance or the particular sensitivity of the location. Subdivisions effected through the Subdivision Ordinance shall comply fully with the terms of this chapter.

(b) The inventory shall contain a plan sheet that clearly depicts the extent and location of any of the following features: manmade and natural bodies of water including but not limited to rivers, creeks, streams, channels, ditches, lakes and ponds; floodplains; tidal and nontidal wetlands; and tidal shores.

(c) The applicant is responsible for having a site-specific in-field determination for perennial flow made by a qualified professional. The CBPA Manager shall confirm the site-specific in-field perennial flow determination. For the purpose of determining whether water bodies have perennial flow, a state approved, scientifically valid system of in-field indicators of perennial flow must be used.

(d) The inventory shall contain a classification of any wetlands present on the site. Wetlands delineations shall be performed in accordance with the comprehensive onsite determination method specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as it may be amended from time to time.

(e) The exact boundaries of the RPA and RMA shall be adjusted, as necessary, based on the site-specific in-field evaluation and the Inventory and shall be depicted on the plan.

(f) The Inventory shall be submitted to the CBPA Manager for review and approval prior to or concurrent with the submission of applications for site plans, subdivision plans, land disturbing permits, building permits or any other activity that constitutes development. The CBPA Manager shall not approve the submitted documents unless the site conditions and environmental features inherent on the site have been identified as deemed appropriate by the CBPA Manager.

Sec. 23.2-7. Special performance standards.

Proposed development or redevelopment within Chesapeake Bay Preservation Areas shall be planned and undertaken in accordance with the following standards, depending on the type(s) of natural features and resources present on the site:

(a) All provisions of chapter 23.1, Wetlands, County Code, shall be observed where applicable.

(b) All construction within flood plain areas shall be in accordance with the requirements of section 24.1-373 of the County Code, the Uniform Statewide Building Code and any special requirements of the National Flood Insurance Program applicable to such area.

(c) *Lot size*. Lot size shall be subject to the requirements of the underlying zoning district(s), provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards in this

chapter so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by this chapter. On newly created lots, principal buildings shall be located at least ten (10) feet from the RPA buffer.

(d) *RPA Boundary Delineation*: The boundary of the RPA shall be delineated by temporary construction fencing on any development site subject to the provisions of this chapter. In addition the property owner/developer shall be responsible for posting permanent signage identifying the landward limits of the RPA. The signs will be provided by the County and shall be posted at such locations as are approved by the County and identified on the site development plan.

(e) No more land shall be disturbed than is necessary to provide for the proposed use or development.

(f) All land development shall minimize impervious cover consistent with the proposed use or development.

(g) Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.

(h) Any activity which will cause more than 2,500 square feet of land disturbance, including construction of single-family houses and installation of septic tanks and drainfields, shall comply with the requirements of chapter 10, Erosion and Sediment Control and all other aspects of the county development review process.

(i) Stormwater management criteria consistent with the water quality protection provisions (4VAC 3-20-10 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, shall be satisfied.

1. For new development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the Chesapeake Bay default value for phosphorus loading of 0.45 pounds/acre/year and an equivalent impervious cover of sixteen percent.

2. For sites within IDA's or other isolated redevelopment sites, the existing nonpoint source pollution load shall be reduced by at least ten percent (10%). The CBPA Manager may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided, however, that in no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.

3. Any maintenance, alteration, use or improvement to an existing structure which does not increase the impervious area nor degrade the quality of surface water discharge, as determined by the CPBA Manager, may be exempted from the requirements of this section.

(j) The functionality and maintenance of best management practices shall be ensured by the owner or developer through a maintenance agreement, approved as to form by the county attorney, whereby the owner shall covenant to perform perpetual maintenance of any such BMP and grant authority to the county to perform such work at the owner's cost if the owner should default on his obligations. The owner or developer shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the CBPA Manager.

(k) All on-site sewage soil absorption systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years or otherwise maintained in accordance with Section 18.1-40(f) of the County Code, and documentation or other proof satisfactory to the CBPA Manager of compliance with this requirement shall be submitted to the CBPA Manager upon request.

(l) A secondary sewage soil absorption area with a capacity at least equal to that of the primary absorption area shall be provided for every lot proposed for development where public sanitary sewer is not available in accordance with Section 18.1-40(c) of the County Code**.** Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites, including the secondary sewage soil absorption area, until the lot is served by public sewer.

(m) Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, dairy and feedlot operations or lands otherwise defined as agricultural, shall have a soil and water quality conservation assessment conducted and approved in accordance with the CBPA Regulations (9VAC10-20-120.9), as may be amended from time to time.

(n) Silvicultural activities in the CBPA are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the "Virginia's Forestry Best Management Practices for Water Quality" as may be amended from time to time.

(o) Prior to initiating grading or other on-site development activities on any portion of a lot, all wetlands permits required by federal, state, and county laws and regulations shall be obtained and evidence of such submitted to the CBPA Manager.

(Ord. No. 06-32, 12/19/06)

Sec. 23.2-8. Water Quality Impact Assessments (WQIA).

(a) A water quality impact assessment (WQIA) shall be required for:

(1) Any proposed land disturbance, development or redevelopment activity within a RPA as permitted by this chapter;

(2) Any buffer modification, noncomplying use and development waiver, exception, exemption, allowable land development or encroachment as provided for in this chapter;

(3) Any development activity in the RMA as deemed necessary by the CBPA Manager due to the unique site characteristics or intensity of the proposed use or development.

(b) The purpose of the WQIA is to:

(1) Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in the RPA and other environmentally sensitive lands;

(2) Ensure that where land disturbance, development or redevelopment does take place within the RPA and other sensitive lands, it will occur on those portions of the site and in a manner that will be least disruptive to the natural functions of the RPA and other sensitive lands;

(3) Provide documentation for requests for development approval or administrative relief from terms of this chapter when warranted and in accordance with the requirements contained herein; and

(4) Specify mitigation that will address water quality protection.

(c) A WQIA shall include a narrative and site drawings that address the evaluation criteria and that depict, address and includes the following:

(1) Location of the components of the RPA;

(2) Location and nature of the proposed encroachment, noncomplying use or development waiver, exception, exemption, allowable land development or modification of the buffer area, including: type of paving material; areas of clearing; filling or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;

(3) Type and location of proposed best management practices and supporting calculations to mitigate any proposed encroachment and/or modification;

(4) Location of existing vegetation, including the number and type of trees and other vegetation in the buffer proposed to be removed to accommodate the encroachment, noncomplying use and development waiver, exception, exemption, allowable land development or modification, and number and type of trees to remain;

(5) Revegetation plan that supplements the existing buffer vegetation and specifies the proposed replacement vegetation in accordance with the Buffer Guidelines;

(6) Erosion and sediment control and construction sequencing; and

(7) A copy of all required permits from all applicable agencies necessary to develop the project or a status of the acquisition of each.

(d) The WQIA shall be submitted to the CBPA Manager for review and approval concurrent with the submission of applications for review and approval of site plans, subdivision plans, applications for land disturbing activity permits, building permits, buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, exemptions or exceptions.

(e) Upon completing review of a WQIA the CBPA Manager will determine whether the proposed buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, exemption, or application for a exception is consistent with the provisions of this chapter and make a finding based upon the following evaluation criteria:

(f) The CPBA Manager may require additional mitigation where potential impacts have not been adequately addressed.

Sec. 23.2-9. RPA buffer area requirements.

(a) To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation as described in the Buffer Guidelines shall be provided. The purpose of the buffer is to retard runoff, prevent erosion, and filter nonpoint source pollution from runoff and it shall be retained if present and established where it does not exist in accordance with the Buffer Guidelines.

(b) For purposes of calculating the impact of the proposed development on water quality, the required 100-foot wide RPA buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

(c) Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this chapter. Reestablishment must be accomplished in accordance with the Buffer Guidelines, as may be amended from time to time.

(d) Permitted modifications of the buffer area:

Existing woody vegetation may be removed to provide for reasonable sight lines, access paths, and shoreline erosion control best management practices, if authorized by the CBPA Manager, on a case-by-case basis, upon submittal of a WQIA documenting that the RPA buffer functions will be maintained and vegetation will be replaced.

(1) Trees may be thinned and pruned for sight lines, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff in accordance with the Buffer Guidelines.

(2) Any access path shall be constructed and surfaced so as to effectively control erosion and aligned to minimize tree removal and environmental impact.

(3) For approved shoreline erosion control best management practices, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice, applicable permit conditions or requirements and in accordance with the Buffer Guidelines.

(4) Dead or diseased trees or shrubbery may be removed pursuant to sound horticultural practice in accordance with the Buffer Guidelines.

(5) The following modifications to the buffer do not require a WQIA or plan approval if performed as described in the Buffer Guidelines:

a. Home landscaping such as pruning, mowing, mulching; and

b. Removal of noxious weeds provided they are replaced with vegetation equally suited for the growing environment and no land disturbance takes place.

(e) On land used for agricultural purposes, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area provided that the provisions of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations (Section 9 VAC 10-20-130.5b 1-5 and 10-20-120.9) as they may be amended from time to time, are met.

(f) Permitted encroachments into the buffer area:

(1) When the application of the RPA buffer would result in the loss of an adequate, as determined by the CBPA Manager, buildable area on a lot or parcel legally created prior to October 1, 1989, the CBPA Manager may permit an encroachment into the buffer area in accordance with following criteria:

a. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. Detached accessory structures shall not be eligible for encroachment authorizations.

b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot.

c. The encroachment may not extend into the seaward 50 feet of the buffer area.

d. Encroachments into the buffer processed through an administrative review shall be subject to the findings required by subsection 23.2-13 but without the requirement for a public hearing, such findings to be made instead by the CBPA Manager.

(2) When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, or on a lot or parcel legally created prior to January 1, 2004, and effected by a perennial steam determination, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:

a. The lot or parcel was created as a result of a legal process conducted in conformity with the County's subdivision regulations;

b. Conditions or mitigation measures imposed through a previously approved exception shall be met;

c. If the use of a BMP was previously required, the BMP shall be evaluated to determine if it continues to function effectively and if necessary the BMP shall be reestablished or repaired and maintained as required; and

d. The criteria of subdivision (f)(1) of this section shall be met.

(g) Redevelopment within IDA's may be exempt from the RPA buffer requirement in accordance with the development review process, provided that the water quality standards found in section 23.2-7 Performance Standards, can be achieved.

(h) Nothing contained herein shall be construed to prevent an RPA buffer area from being used to fulfill minimum open space standards required in chapter 24.1, Zoning, County Code.

Sec. 23.2-10. Allowable Land Development in RPA

Land development may be allowed in the RPA**,** subject to CBPA Manager review and approval, only if it is one or more of the following:

(a) Is a new or expanded water-dependent facility provided:

(1) It does not conflict with the comprehensive plan;

(2) It complies with the performance criteria set forth in this chapter;

(3) Any non-water-dependent component is located outside of the RPA; and

(4) Access through the RPA to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

(b) Constitutes redevelopment outside of an IDA and there is no increase in impervious area in the RPA, no further encroachment in the RPA and all applicable erosion and sediment control and stormwater management criteria are observed.

(c) Constitutes development or redevelopment within an IDA.

(d) Is a new use established pursuant to subsection 23.2-9(f) or is an addition or alteration to a noncomplying structure allowed pursuant to section 23.2-12.

(e) Is a road or driveway crossing not exempt under section 23.2-11, below, and which complies with the provisions of this chapter, provided further:

(1) The CBPA Manager makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA.

(2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and adverse effects on water quality.

(3) The design and construction of the road or driveway satisfies all applicable criteria of this chapter, including submission of a WQIA; and

(4) The CBPA Manager reviews the plan for the road or driveway proposed in or across the RPA in conjunction with a site plan, subdivision plan, and land disturbing or building permit application.

(f) Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided:

(1) The county has conclusively established that location of the facility within the RPA is the optimum location;

(2) The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;

(3) The facility must be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's program;

(4) All applicable permits for construction in state or federal waters must be obtained from the appropriate local, state and federal agencies, such as the U.S. Army Corps of Engineers,

the Virginia Department of Environmental Quality, the York County Wetlands Board and the Virginia Marine Resources Commission;

(5) Approval must be received from the County prior to construction; and

(6) Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.

(7) It is not the intent of this subsection to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.

(g) This chapter shall not be construed to prevent pre-existing structures damaged or destroyed as a result of a casualty loss beyond the control of the owner from being reconstructed within Chesapeake Bay Preservation Areas, unless otherwise restricted by County Code.

Sec. 23.2-11. Exemptions in Resource Protection Areas (RPA)

(a) Exemptions for public utilities, railroads, and public roads and facilities**.**

(1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (section 10.1-560, et seq., Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et seq, Code of Virginia) or an erosion and sediment control plan and a stormwater management plan approved by the-Virginia Department of Conservation and Recreation will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned on the following:

a. Optimization of the public road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.

(2) Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunications and cable television lines owned, permitted or both by a local government or regional service authority shall be exempt from the criteria in this part provided that:

a. To the degree possible, the location of such utilities and facilities shall be outside the RPA;

b. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and shall be designed and conducted in a manner that protects water quality; and

d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements.

(3) Water wells, passive recreation facilities such as publicly, community or homeowner association owned boardwalks, trails, and walkways, and historic preservation and archaeological activities located in the RPA may be exempted from the provisions of this chapter provided that it is demonstrated to the satisfaction of the CBPA Manager that:

a. Any required permits, except those to which this exemption specifically applies, have been obtained;

b. Sufficient and reasonable proof is submitted to establish that the intended use will not cause a deterioration in water quality;

c. The intended use does not conflict with nearby planned or approved uses; and

d. Any land disturbance exceeding an area of 2,500 square feet will comply with chapter 10, Erosion and Sediment Control, of this code.

It is not the intent of this subsection to exempt private boardwalks, trails or walkways on an individual lot from the requirements of this chapter.

Sec. 23.2-12. Noncomplying use and development waivers.

The lawful use of a principal building or structure which existed on September 20, 1990, or which exists at the time of any amendment to this chapter, and which is not in compliance with the provisions of this chapter or such amendment thereto, may be continued in accordance with article VIII of chapter 24.1 of the County Code.

No alteration or expansion of any noncomplying structure shall be allowed except in accordance with the following:

(a) The CBPA Manager may grant a noncomplying use and development waiver for legally existing principal structures on lots not in compliance with CBPA standards to provide for alterations and additions to such noncomplying structures provided that:

(1) There will be no increase in the nonpoint source pollution load;

(2) Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of chapter 10, Erosion and Sediment Control, of this code; and

(3) Accessory structures or additions to accessory structures shall not be authorized by noncomplying use and development waivers.

(b) An application for a noncomplying use and development waiver shall be made to the CBPA Manager and shall include, for the purpose of proper enforcement of this section, the following information:

(1) Name and address of applicant and property owner;

(2) Legal description of the property and type of proposed use and development;

(3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;

(4) Location and description of any existing private water supply or sewage disposal system; and

(5) A WQIA, BMP plan and buffer restoration plan as deemed necessary by the CBPA Manager.

(c) Noncomplying use and development waivers for legally existing principal structures processed through an administrative review of the application shall be subject to the findings required by subsection 23.2-13, such findings to be made by the CBPA Manager, but without the requirement for a public hearing.

(d) Noncomplying use and development waivers for legally existing principal structures processed through an administrative review of the application shall be subject to the findings required by subsection 23.2-13, such findings to be made by the CBPA Manager, but without the requirement for a public hearing.

(Ord. No. 13-4, 5/21/13)

Sec. 23.2-13. Exceptions.

(a) Requests for exceptions from the CBPA requirements of section 23.2-7, 23.2-8, 23.2-9, 23.2-10 and/or 23.2-11 shall be made by application to the York County Chesapeake Bay Board. The board shall identify the impact of the proposed exception on water quality and on lands within the RPA based on the natural resources inventory, mitigation measures and WQIA which complies with the provisions of this chapter and which shall be submitted by the applicant at the time of application.

(b) No later than 60 days after receipt of a complete exception application, the Board shall hold a public hearing on the request. The board shall notify the affected public of any such exception requests and shall consider these requests at a public hearing advertised in accordance with the requirements of Section 15.2-2204 of the Code of Virginia, except that only one hearing will be required. Also when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the notice shall be given by first-class mail to the last known address as shown on the current real estate tax assessment book or records.

(c) Exceptions to the CBPA requirements may be granted by the Chesapeake Bay Board provided that a finding is made that:

(1) The requested exception is the minimum necessary to afford relief:

(2) Granting the exception will not confer upon the applicant any special privileges that are denied to other property owners who are subject to these provisions and similarly situated;

(3) The exception is in harmony with the purpose and intent of the CBPA Act and is not of substantial detriment to water quality;

(4) The exception request is not based upon conditions or circumstances that are self-created or self-imposed;

(5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and

(6) Other findings, as recommended by the CBPA Manager and deemed appropriate by the board, are met.

(d) The board shall review the application for a exception and the submitted natural resources inventory and WQIA and may grant a exception to the requirements provided the above findings are made.

(e) In granting a exception, the board may impose reasonable and appropriate conditions as the board deems necessary to further the purpose and intent of this chapter and the Chesapeake Bay Preservation Act.

Sec. 23.2-14. Applications for exceptions.

Applications for exceptions shall be made in writing and shall include the following:

(a) Name and address of applicant and property owner;

(b) Legal description of the property and type of proposed use and development;

(c) A sketch of the dimensions of the lot or parcel, location of the buildings and proposed improvements;

(d) A Water Quality Impact Assessment completed in accordance with Section 23.2-8; and

(e) A nonrefundable processing fee of $250.00 shall accompany each application to cover the cost of processing.

Sec. 23.2-15. Granting Exceptions

The Chesapeake Bay Board may grant exceptions as set forth herein. The board shall make its determination within 65 days of the hearing; and if the board fails to act within this time frame the application shall be deemed to be approved.
(Ord. No. 13-4, 5/21/13)

Sec. 23.2-16. Appeals

(a) An appeal to the Chesapeake Bay Board may be taken by any person aggrieved by any administrative decision, order or requirement under this chapter, by submitting a written application for review to the Chesapeake Bay Board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application. A nonrefundable processing fee of $250.00 shall accompany each application for an appeal.

(b) In rendering its decision, the board shall:

(1) Examine the language of this chapter to determine whether the language is clear or is subject to more than one interpretation;

(2) If, in the opinion of the board, the language is clear, the board will require the applicant to show that his case is not within the intent of the regulation. In these cases, the board will assume that the administrative decision is correct and the applicant will bear the burden of proof;

(3) If the language of this chapter is unclear, the board will inquire as to whether the decision made by the official involved is consistent with previous administrative determinations in similar situations;

(4) If the administrative decision is consistent with prior decisions, the applicant will prevail only if the administrative decision is not within the intent and purpose of the ordinance and, therefore, so arbitrary or unreasonable that the board must substitute its own interpretation and overturn the administrative decision. If the administrative decision is both consistent and reasonable, the board will uphold it;

(5) If the administrative decision is inconsistent with prior decisions, the Board will carefully examine all factors involved to ensure that the appearance of an arbitrary decision is overcome by a legitimate attempt to further the intent and purpose of this chapter.

In applying these guidelines, the board will consider any pertinent factors that arise during the public hearing.

(c) Any person aggrieved by a Chesapeake Bay Board decision, order or requirement, may appeal the decision, order or requirement to the Circuit Court by filing a notice of appeal with the Clerk of the Court specifying the grounds on which aggrieved, within thirty days after the final decision by the Chesapeake Bay Board. A copy of the notice shall be provided to each regular member of the Chesapeake Bay Board, to the County Attorney, and to the owner of the subject property if the appellant is not such owner, by hand delivery or by mailing a copy of the notice contemporaneously with its filing by first class mail, postage prepaid.
(Ord. No. 06-1, 1/17/06; Ord. No. 07-14(R), 8/21/07; Ord. No. 08-4, 4/15/08)

Sec. 23.2-17. Violations

(a) Any person who engages in development or redevelopment within a CBPA or modifies the buffer within a RPA without first receiving approval for such activity as prescribed by this chapter shall be in violation of this chapter.

(b) Any person who violates any conditions of an allowed encroachment, buffer modification, noncomplying use and development waiver, exception, exemption or allowable land development or exceeds the scope of any approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.

Sec. 23.2-18. Civil penalties

(a) Without limiting the remedies which may be obtained under this section, any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception, or permit condition authorized under this chapter shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed $5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.

(b) Without limiting the remedies which may be obtained under this section, and with the consent of any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception or permit condition authorized under this chapter, the county may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed $10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision (a) of this section. Civil charges may be in addition to the cost of any restoration required or ordered by the county.

(c) In addition to and not in lieu of the penalties prescribed in sections (a) and (b) hereof, the county may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this ordinance and may seek any other remedy authorized by law.

(Ord. No. 06-1, 1/17/06)

CODE OF THE COUNTY OF YORK

Chapter 23.3

Stormwater Management

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ARTICLE I. IN GENERAL

This chapter is adopted pursuant to § 62.1-44.15:27 of the Code of Virginia to integrate the County of York stormwater management requirements with Chapters 10 and 23.2 of this Code, and York County Code § 24.1-373, into a unified stormwater program, to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both York County and those responsible for compliance with these programs.

Sec. 23.3-1. Purpose of chapter.

It is the purpose of this chapter to establish minimum stormwater management requirements and controls to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, to prevent illicit discharges into the storm sewer system, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.

This chapter seeks to meet these purposes through the following objectives:

1. Require that land development and land conversion activities maintain the post-development runoff characteristics, as nearly as practicable, to the pre-development runoff characteristics in order to reduce flooding, siltation, stream bank erosion, and property damage;

2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff;

3. Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;

4. Administer the Virginia Stormwater Management Program (VSMP) registration statements for plan review, plan approval, inspection and enforcement of applicable General Permits;

5. Ensure compliance with the requirements of any approved Stormwater Pollution Prevention Plan (SWPPP) and approved Stormwater Management Plan requirements, per Virginia Administrative Code 9VAC25-870-54;

6. Establish provisions for the long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

7. Establish certain administrative procedures for the submission, review, approval and disapproval of stormwater plans and the inspection of approved projects; and

8. Establish controls to reduce pollutants to the storm sewer system from illicit discharges to the maximum extent practicable, as required by the county's small municipal separate storm sewer system VSMP discharge permit.

Sec. 23.3-2. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings stated in this section unless the context clearly indicates otherwise:

Act. The Virginia Stormwater Management Act, § 62.1-44.15:24, et seq., of the Code of Virginia.

Administrator. The director of the county's Department of Environmental and Development Services or his designee.

Agreement in lieu of a stormwater management plan means a contract between the county or other authorized VSMP authority and the owner or permittee that specifies methods that shall be implemented to

comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the county or other VSMP authority in lieu of a stormwater management plan.

Applicant. Any person submitting an application for a permit or requesting issuance of a permit pursuant to this chapter.

Approved or Approval. Approval by the Administrator unless another authority is specifically named.

Average Land Cover Condition. A measure of the average amount of impervious surfaces within a watershed, assumed to be 16 percent.

Best management practice or BMP means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

Chesapeake Bay Preservation Act land-disturbing activity means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of the County designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, Code of Virginia, § 62.1-44.15:67 et seq. and Chapter 23.2 of this Code.

Clean Water Act or CWA means the federal Clean Water Act (33 U.S.C §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Code of Virginia means the Code of Virginia (1950), as it may be amended from time to time.

Code or County Code. The Code of the County of York, Virginia.

Common plan of development or sale means a contiguous area, including but not limited to a subdivision development, where separate and distinct construction activities may be taking place at different times on different schedules.

Control measure means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

County. The County of York.

County Administrator. The county administrator for the county, or his designee.

Department means the Virginia Department of Environmental Quality.

Developer. A person who undertakes land disturbance activities.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

Discharge. To dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked, or placed by any means.

Drainage Easement. A legal right granted by an owner to a grantee allowing the use of private land for stormwater management purposes.

Flooding. A volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

General permit means the VSMP General Permit for Discharges of Stormwater from Construction Activities found at Virginia Administrative Code 9VAC25-880, or any subsequent amendment or modification thereto, authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

Groundwater. All subsurface water, including, but not limited to, that part within the zone of saturation.

Impervious Cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Illicit discharge. Any discharge to the storm sewer system that is not composed entirely of stormwater except the term shall not include the following discharges unless such discharges are identified by the county administrator to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows or rising groundwater;

(4) Infiltration of uncontaminated groundwater;

(5) Public safety activities;

(6) Pumping of uncontaminated groundwater from potable water sources, foundation drains, irrigation waters, springs or water from crawl spaces or footing drains;

(7) Air conditioning condensation;

(8) Lawn watering;

(9) Individual residential car washing;

(10) Flows from riparian habitats or wetlands;

(11) Dechlorinated swimming pool discharges;

(12) Street washing;

(13) Any activity authorized by a valid Virginia Pollutant Discharge Elimination System (VPDES) permit, a Virginia Stormwater Management permit (VSMP) or Virginia Pollution Abatement (VPA) permit; or

(14) Any other water sources not containing sewage, industrial wastes or other wastes.

Industrial Wastes. Liquid or other wastes resulting from any process of industry, manufacture, trade or business or from the development of any natural resources.

Land disturbance or land-disturbing activity means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, filling or excavation except that the term shall not include those exemptions specified in Section 23.3-5 (e) of this chapter.

Layout means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

Linear Development Project. A land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

Local Stormwater Management Program or Local Program. A statement of the various methods adopted pursuant to the Act and implemented by the county to manage the runoff from land development projects and to require the control of post-development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities, and minimum administrative procedures consistent with

this chapter.

Maintenance Agreement. A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Minimum Standards. Those Minimum Standards contained within the Erosion and Sediment Control Regulations promulgated by the Virginia Soil and Water Conservation Board, as set out in 9VAC25-840-40 of the Virginia Administrative Code as they may be extended from time to time.

Minor modification means an amendment to an existing General Permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in United States Environmental Protection Agency (EPA) promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

MS4 means a municipal separate storm sewer system as defined in Code of Virginia § 62.1-44.15:24.

Nonpoint Source (NPS) Pollution. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonpoint Source Pollutant Runoff Load or Pollutant Discharge. The average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

Operator means the owner or operator of any facility or activity subject to regulation under this chapter.

Other Wastes. Materials that can adversely affect waters of the United States should they be discharged into same including, but not limited to: decayed wood; sawdust; chips; shavings; bark; leaves; lawn clippings; lawn chemicals, except those applied in accordance with manufacturer's recommendations; animal or vegetable matter; pet waste; construction debris; garbage; refuse; ashes; offal; tar; paint; solvents; petroleum products; gasoline; oil waste; antifreeze or other automotive, motor or equipment fluids.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permit or VSMP Authority Permit. An approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this chapter, and which may only be issued after evidence of general permit coverage has been provided by the Department.

Permittee means the person to whom the VSMP Authority Permit is issued.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

Post-development means conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Pre-development. Conditions that exist at the time that plans for the land development of a tract of land are approved by the Administrator. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

Record Drawing. A drawing of the completed facilities showing actual constructed elevations, dimensions and locations.

Regulations means the Virginia Stormwater Management Program (VSMP) Permit Regulations 9VAC25-870, as they may be amended from time to time.

Runoff or Stormwater Runoff. That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

Sanitary Sewer. A system of conduits that collect and deliver sanitary wastewater to a wastewater treatment or pumping facility.

Sewage. The water-carried human wastes from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present.

Sheet flow. Shallow, unconcentrated and irregular flow down a slope.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water shall not be considered part of a site.

State means the Commonwealth of Virginia.

State Board means the Virginia Water Control Board.

State permit means an approval to conduct a land-disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

State Water Control Law means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

State Waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Stop Work Order. An order issued which requires that construction activity on a site be stopped.

Storm Sewer System. See Stormwater System.

Stormwater means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include without limitation stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater or Stormwater Runoff. Flow from rain, snow or other forms of precipitation and the resulting surface runoff and drainage.

Stormwater Management. The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Stormwater Management Plan or Plan means a document or documents containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of this chapter.

Stormwater Pollution Prevention Plan or SWPPP means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this chapter. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Stormwater System or Storm Sewer System. A system of roads, streets, catch basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the county that are designed or used for collecting, storing, or conveying stormwater or through which stormwater is collected, stored, or conveyed.

Subdivision means the same as defined in Section 20.5-5 of this Code.

Total maximum daily load or TMDL means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

Virginia Stormwater Management Act or Act means Article 2.3(§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

Virginia Stormwater BMP Clearinghouse website means a website maintained by the State that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Program or VSMP means a program approved by the State Board after September 13, 2011, that has been established by the county to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority or VSMP authority means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program or the Department. Once the county has been so approved, then all references herein to a "VSMP authority" shall be to the county.

VWCB means the Virginia Water Control Board.

Watershed. A defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

Sec. 23.3-3. Local stormwater management program.

(a) Pursuant to the Virginia Stormwater Management Law, Title 62.1, Chapter 3.1, Article 2.3 of the Code of Virginia, the county hereby adopts the regulations, references, guidelines, standards and specifications (hereinafter "the Virginia Stormwater Management Law and Regulations") promulgated by the Virginia State Water Control Board, as such may be amended from time to time, for the effective management of stormwater to prevent the unreasonable degradation of properties and other natural resources in the form of water pollution, stream channel erosion, depletion of ground water resources and more frequent localized flooding. The Virginia Stormwater Management Law and Regulations are sometimes referred to hereinafter collectively as "the state program".

(b) Before adopting regulations that are more stringent than the state program, the county shall give due notice and conduct a public hearing on the proposed or revised regulations. No public hearing shall be required when the county is amending the local program to conform to revisions in the state program.

(c) The county's director of the Department of Environmental and Development Services, or his designee, is hereby designated as the county's agent, or Administrator, for the purpose of administering and enforcing the terms of this chapter. The Administrator is authorized to make such inspections as may be necessary to ensure compliance with the terms of this chapter, and any conditions of approval for specific projects and is authorized to take such steps as are provided by this chapter, and as may be necessary, to ensure compliance with its terms. The Administrator shall prepare such standards and regulations not inconsistent with this chapter as may be necessary to regulate the design, construction, and maintenance of stormwater systems. The standards and regulations shall be subject to the approval of the county board of supervisors and shall be amended from time to time as conditions warrant.

(d) The program and regulations provided for in this chapter shall be made available for public inspection at the office of the county's Department of Environmental and Development Services.

Sec. 23.3-4. Conflicting requirements.

(a) The terms, conditions and provisions of this chapter shall in no way alter, diminish, abrogate, annul, or change the terms, conditions or provisions of any other ordinance of the county or of any other rule or regulation, statute or other provision of law.

(b) In the case of any conflict between any term, condition or provision of this chapter with any term, condition or provision of any other county ordinance, or any regulation, or statute, the more restrictive term, condition or provision shall prevail.

Sec. 23.3-5. Applicability.

(a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this chapter.

(b) Without limitation, this chapter shall be applicable to all subdivision, site plan, building permit or land disturbing activity applications. This chapter also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by the county to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans. No subdivision or site plan, or application for a building permit or land disturbing activity permit, or plan or permit relating to any land development activity to which this chapter applies, shall be approved unless such plan or application is in full compliance with this chapter.

(c) After June 30, 2014, a Chesapeake Bay Preservation Area land-disturbing activity shall not require completion of a registration statement or require coverage under the VPDES Permit for Discharges of Stormwater From Construction Activities (VAR10) but shall be subject to the technical criteria specified in 9VAC25-870-51, including erosion and sediment control plan requirements consistent with Virginia Erosion and Sediment Control law and regulations, Chapter 10 of this Code, stormwater management plan requirements set out in section 23.3-12 of this chapter, pollution prevention plan requirements set out in section 23.3-15 of this chapter, technical criteria and administrative requirements for land disturbing activities 23.3-11(a) of this chapter, and the requirements for long-term maintenance set forth in section 23.3-19 of this chapter.

(d) In addition to the foregoing, the provisions of this chapter shall apply, as applicable, to all modifications to existing stormwater systems and to all illicit discharges.

(e) The following activities are exempt from the stormwater performance standards unless otherwise required by federal law:

(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;

(2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

(3) Construction of single-family residences separately built not part of a larger common plan of development or sale and not part of a subdivision that disturbs less than 25000 sq. ft. of

land area, including additions or modifications to existing single-family detached residential structures;

(4) Land development projects that disturb less than 2500 square feet of land area; and

(5) Linear development projects, provided that (i) less than one acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.

(6) Discharges to a sanitary sewer or a combined sewer system;

(7) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;

(8) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and

(9) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.

Sec. 23.3-6 – 23.3-9. Reserved.

ARTICLE II. STORMWATER MANAGEMENT PROGRAM PROCEDURES AND REQUIREMENTS

Sec. 23.3-10. Stormwater Management Program

(a) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:

(1) A permit application that includes a general permit registration statement if such statement is required;

(2) An erosion and sediment control plan approved in accordance with the York County Erosion and Sediment Control ordinance, Chapter 10 of this Code; and

(3) A stormwater management plan that meets the requirements of Section 23.3-14 of this chapter, or an executed agreement in lieu of a stormwater management plan.

(b) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.

(c) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 23.3-30, are received, and a reasonable performance bond required pursuant to Section 23.3-31 of this chapter has been submitted.

(d) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.

(e) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

Sec. 23.3-11. Stormwater management performance standards.

(a) Water quality performance standards: The post-development non-point source pollution runoff load shall not exceed the calculated pre-development load based upon the average land cover condition or the existing site condition. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-63 (water quality design criteria requirements); 9VAC25-870-65 (water quality compliance); 9VAC25-870-66 (water quantity); 9VAC25-870-69 (offsite compliance options); 9VAC25-870-72 (design storms and hydrologic methods); 9VAC25-870-74 (stormwater harvesting); 9VAC25-870-76 (linear development project); and, 9VAC25-870-85 (stormwater management impoundment structures or facilities), which shall apply to all land-disturbing activities regulated pursuant to this chapter, except as expressly set forth in Subsection (b) of this Section.

(b) Any land-disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C (9VAC25-870-93 et.seq.) technical criteria provided:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the county to be the equivalent thereof (i) was approved by the county prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of this chapter, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each pint of discharge, and such that there is no increase in the volume or rate of runoff;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(c) Local, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria provided:

(1) There has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or the Department has approved a stormwater management plan prior to July 1, 2012.

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(d) Land-disturbing activities grandfathered under subsections (b) and (c) shall remain subject to the Part II C technical criteria for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical requirements adopted by the State Board.

(e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part II C of the Regulations, as adopted by the county in subsection (b) of this section.

Sec. 23.3-12. Stormwater management plans.

(a) A stormwater management plan (plan) shall be submitted to the county Department of Environmental and Development Services for review and approval concurrent with the submission of applications of site plans, subdivision plans or land disturbing activity permits. Land disturbing activity permits shall not be issued for the activity until the plan, as required by this chapter, detailing

how runoff and associated water quality impacts resulting from the activity will be controlled and managed is approved.

(b) The standards contained within the Virginia Stormwater Management Act and Regulations are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of stormwater management plans. The Administrator, in considering the adequacy of a submitted plan, shall be guided by these same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Stormwater Management Regulations shall take precedence.

(c) It is the responsibility of an applicant to include in the plan sufficient information for the Administrator to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the development and the effectiveness and acceptability of the proposed measures detailed in the plan. Completeness of plan will be determined and applicant notified in writing of determination within 15 days of receipt.

(1) If incomplete, applicant must be notified in writing.

(2) If determination of completeness is made, 60 days from date of communication is allowed for review.

(3) If determination of completeness is not made and communicated within 15 days, plan shall be deemed complete as of date of submission and 60 days from date of submission will be allowed for review.

(4) Any plan previously disapproved must be reviewed within 45 days of resubmission.

(d) All stormwater management plans shall be appropriately sealed and signed by a professional engineer licensed to practice in Virginia certifying that the plan meets all submittal requirements outlined in this chapter and is consistent with good engineering practice.

(e) Stormwater management plans shall be approved or disapproved according to the following:

(1) A maximum of 60 calendar days from the day a complete stormwater management plan is accepted for review will be allowed for the review of the plan. During the 60-day review period, the Administrator shall either approve or disapprove the plan and communicate its decision to the applicant in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter.

(2) A disapproval of a plan shall contain the reasons for disapproval.

(f) If a plan meeting all requirements is submitted and no action is taken within appropriate time frame, the plan will be deemed approval.

(g) A stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

(h) An approved plan may be changed by the Administrator when:

(1) An inspection reveals that the plan is inadequate to satisfy applicable requirements and an acceptable revised plan is submitted; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter are agreed to by the Administrator and the person responsible for carrying out the plans.

(i) In addition to the above standards, the following requirements shall be met for plan submissions:

(1) The size, number, format, etc. of the plan shall meet the applicable requirements for site plan submission in accordance with Chapter 24.1 of this code or for subdivision plan

submission in accordance with Chapter 20.5, depending upon whether the stormwater management plan is being submitted as part of a site plan or subdivision plan application.

(2) Plans shall be prepared to an appropriate engineer's scale and the scale shall be shown on the plan.

(3) The location and extent of any transitional buffers, infiltration yards, Chesapeake Bay preservation areas, floodplain management areas, wetlands, historic resources management areas, tourist corridor management areas and/or watershed management and protection areas that may be required by the application of Chapters 24.1 (zoning), 23.2 (Chesapeake Bay preservation areas) or 23.1 (wetlands) of this code shall be shown on the plan.

(4) The location, type, extent, owner's name and recordation information of any existing or proposed landscape, conservation, preservation, drainage, impoundment, utility, ingress/egress or similar easements on the subject property or adjoining the property shall be shown on the plan.

(5) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions shall be prepared and submitted along with the plan. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) stormwater routing, (vi) infiltration rates, where applicable, (vii) culvert capacities, (viii) flow velocities, (ix) data on the increase in rate and volume of runoff for the specified design storms, (x) hydraulic grade lines, (xi) inlet sizing, (xii) and documentation of sources for all computation methods and field test results.

(6) Pre-development and post-development drainage area maps with topography (minimum scale to be one-inch equals 200-feet) which extends a minimum of 500-feet beyond the limits of the proposed development detailing (i) the various drainage basins, (ii) the direction and flow rate of runoff, and (iii) the flow routing for the controlling time of concentration shall be prepared and submitted along with the plan.

(7) A topographic base plan (minimum scale to be one-inch equals 50 feet) demonstrating positive drainage from each lot or structure shall be prepared and submitted along with the plan. Such plan shall include (i) direction of flow arrows, (ii) elevations of lot corners, center, high points, low points, finished floor, curbing, and other drainage features (iii) locations where proposed grades meet existing grades, (iv) sizing, slope and elevation of culverts and pipes, (v) depth, size, shape and slope of ditches (vi) size, inverts and elevations of receiving channels or systems, and (vii) location, access to, and details of any BMPs. The one-hundred year flood boundary as depicted on the Flood Insurance Rate Map shall be shown on the plan and all proposed development within the floodplain shall meet the requirements of the Floodplain Management Area Overlay District section of Chapter 24.1 of this code.

(8) The expected average percent impervious cover per lot for subdivisions shall be determined by the applicant based upon such factors as: the size and style of homes; length, width and configuration of the driveways; number and size of decks, pools, sheds and other accessory structures; and other development that can reasonably be expected to occur on the lots. In no case shall the expected average impervious cover per lot be less than is defined by the curve containing the following data points in the form of (average lot size in square feet: minimum expected percent impervious cover): (87120:12), (43560:20), (21780:25), (14505:30), (10890:38) and (5445:65). BMPs shall be sized based upon total impervious cover which is the summation of the actual impervious cover of the streets and other improvements being proposed as part of the subdivision and the expected average percent impervious cover per lot.

(9) Retention or detention facilities shall be shown on the plan with the following details where applicable (i) a minimum of two cross-sectional views at 90 degrees to each other (one through the outfall) for each basin showing: adequate freeboard, ground water elevation, bottom elevation, normal water surface elevation, water surface elevations for two, ten and 100-year storm, side slopes and top of bank elevations (ii) spillway, (iii) emergency spillway,

(iv) outfall structure, (v) forebay, (vi) plantings (vii) impoundment easement, (viii) access for maintenance, and (ix) stock pile areas for future dredging spoils. All details should be drawn to scale and slopes shown as horizontal distance in feet required for one foot change in vertical distance (H:V).

(10) Geotechnical properties for the hydrologic and structural properties of soils for all stormwater retention and detention facilities shall be described in a soils report and submitted as part of the plan. The submitted report shall follow the criteria in the Handbook and shall include (i) boring depth, (ii) ground water elevation, (iii) sampling frequency, (iv) sample type, and (v) associated laboratory testing with results and conclusions. Soil properties for infiltration facilities shall also conform to the guidance and specification outlined in the Handbook.

(11) The maintenance requirements for all BMPs proposed on the plans shall be identified on the plans in the form of a maintenance plan. The purpose of the maintenance plan is to ensure the BMPs will continue to function as designed. The maintenance requirements are to be classified as routine or long term. The required frequency of the maintenance is to be given along with any details necessary to explain each requirement, how it is to be performed, expected cost, level of expertise required to perform, etc. The maintenance plan shall identify the owner of the BMPs and the responsible party for carrying out the maintenance plan. For each facility requiring the removal of accumulated sediments, the point at which the removal of sediment must be performed shall be identified in a quantifiable manner. Access for inspections and maintenance activities must be ensured and permanent easements provided as necessary.

(12) The following standards shall apply to the design and construction of stormwater systems and shall be incorporated into the plans:

a. The maximum depth of open channels should not exceed three feet measured from the invert of the ditch to the adjacent proposed ground elevation.

b. The minimum longitudinal slope for open channels shall be 0.0050 foot per foot for channels with unpaved bottoms and 0.0025 foot per foot for channels with paved bottoms.

c. The minimum longitudinal slope for curb and gutter shall be 0.0030 foot per foot.

d. Stormwater systems that utilize a pump or pumps shall not be approved unless the pumping system will be owned and operated by the county.

e. Permanent drainage easements are required where the stormwater system is located on private property owned by other than the owner of the stormwater system.

f. Permanent impoundment easements are to be provided where the stormwater system is expected to impound waters during a 100-year storm on private property owned by other than the owner of the stormwater system.

g. All stormwater runoff shall be conveyed to a stormwater system and shall not be permitted to sheet flow offsite unless otherwise approved.

h. Existing drainage patterns must be preserved to the maximum extent practicable. Requests to alter drainage patterns must be made in writing and submitted for approval as part of the drainage plan.

i. Wet ponds shall have a minimum depth of water of six-feet.

Sec. 23.3-13. Stormwater Pollution Prevention Plan; Contents of Plans.

(a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Virginia Administrative Code § 9VAC25-870-54 and must also comply with the requirements and general

information set forth in Virginia Administrative Code § 9VAC25-880-70, Section II ("stormwater pollution prevention plan") of the general permit.

(b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.

(c) A copy of the SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

Sec. 23.3-14. Stormwater Management Plan; Contents of Plan.

(a) The Stormwater Management Plan, required in § 23.3-12 of this chapter, must apply the stormwater management technical criteria set forth in § 23.3-11 of this chapter to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:

(1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post-development drainage areas;

(2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;

(3) A narrative that includes a description of current site conditions and final site conditions;

(4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

(5) Information on the proposed stormwater management facilities, including:

(i) The type of facilities;

(ii) Location, including geographic coordinates;

(iii) Acres treated; and

(iv) The surface waters or karst features, if present, into which the facility will discharge.

(6) Hydrologic and hydraulic computations, including runoff characteristics;

(7) Documentation and calculations verifying compliance with the water quality and quantity requirements of § 23.3-11of this chapter;

(8) A map or maps of the site that depicts the topography of the site and includes:

(i) All contributing drainage areas;

(ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

(iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

(iv) Current land use including existing structures, roads, and locations of known utilities and easements;

(v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

(vi) The limits of clearing and grading, and the proposed drainage patterns on the site;

(vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

(viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.

(b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 23.3-11 of this chapter through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.

(c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

(d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

Sec. 23.3-15. Pollution Prevention Plan; Contents of Plans.

(a) Pollution Prevention Plan, required by Virginia Administrative Code §9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

(1) Wastewater from washout of concrete, unless managed by an appropriate control;

(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;

(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

(4) Soaps or solvents used in vehicle and equipment washing.

(c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

(d) Each plan approved shall be subject to the following conditions:

(1) The applicant shall comply with all applicable requirements of the approved plan, and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

(2) The land development project shall be conducted only within the area specified in the approved plan.

(3) The Administrator shall be allowed, after giving notice to the owner, occupier, or operator of the land development project to conduct periodic inspections of the project.

(4) The person responsible for implementing the approved plan shall conduct monitoring and submit reports as the county may require to ensure compliance with the approved plan to determine whether the plan provides effective stormwater management.

(5) No changes may be made to an approved plan without review and written approval of the county.

Sec. 23.3-16. Requests for Exceptions.

(a) A request for an exception shall be submitted in writing. The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this chapter are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.

(1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.

(2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(b) Nothing in this section shall preclude an operator from constructing to a more stringent standard at their discretion.

Sec. 23.3-17. Modifications to existing stormwater systems.

(a) Existing stormwater systems or any part thereof that convey offsite or a combination of onsite and offsite stormwater runoff shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer that the stormwater carrying capacity of such a modified system is equal to or exceeds the existing capacity. It is not the intent of this section to prevent normal maintenance activities from being performed.

Sec. 23.3-18. Sequence of construction and record drawings.

(a) Unless otherwise approved, in any land development or land development project, any required stormwater system shall be constructed prior to the construction of any required sanitary sewer system.

(b) Record Drawings are required for all components of the stormwater system. The record drawings shall be appropriately sealed and signed by a licensed professional in adherence to all minimum

standards and requirements pertaining to the practice of that profession. The record drawings shall:

(1) Be of the same sheet size; format, scale, etc. as the approved stormwater management plans;

(2) Show the as-built condition of the stormwater system calling attention to any changes from the approved drawings;

(3) Give the actual dimensions of components such as length of pipe, ditch, etc.;

(4) Provide elevations for all rims, inverts, channel bottoms, outfalls, pond cross-sections, structures and all other elevation sensitive components of the system; and

(5) Contain a certification stating that the stormwater system has been constructed in accordance with the plan and that the system is functioning as designed.

(c) Prior to the issuance of building permits for above ground structures, preliminary record drawings of the completed stormwater system must be submitted for approval.

(d) Prior to the completion of the project and prior to the issuance of the "Certificate of Occupancy" for any structure, final record drawings shall be submitted and approved.

Sec. 23.3-19. BMP maintenance agreement.

(a) The operation and maintenance of all stormwater facilities identified on the plan shall be guaranteed via a stormwater management/BMP maintenance agreement between the developer and the county. The agreement shall be executed prior to the issuance of the land disturbing activity/stormwater VSMP permit.

(b) The stormwater management/BMP maintenance agreement shall at a minimum:

(1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan.

(2) Be in a form approved by the county attorney;

(3) Reference the approved stormwater management plan;

(4) Insure the stormwater management/BMP facilities are constructed in accordance with the approved plans;

(5) Be stated to run with the land and insure the developer, its successors and assigns maintain the stormwater management/BMP facilities in good working condition, acceptable to the county, so that they are performing their design functions;

(6) Provide for all necessary access for the county and all appropriate governmental authorities to enter upon the property to inspect the stormwater management/BMP facilities in order to assure they are functioning properly;

(7) Provide a procedure that in the event the developer, its successors and assigns fail to properly maintain the stormwater management/BMP facilities in good working order allows the county or any appropriate governmental authority to perform any corrective actions necessary and recover the costs of taking such actions from the developer, its successors and assigns, and;

(8) Be recorded with the land records of the county.

Sec. 23.3-20. Monitoring, reports, inspections, and stop work orders.

(a) The Administrator shall inspect the land-disturbing activity during construction for:

(1) Compliance with the approved erosion and sediment control plan;

(2) Compliance with the approved stormwater management plan;

(3) Development, updating, and implementation of a pollution prevention plan; and

(4) Development and implementation of any additional control measures necessary to address a TMDL.

(b) The Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this chapter.

(c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, and subject to the provisions therein protecting certain confidential information, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this chapter, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this chapter.

Post-construction inspections of stormwater management facilities required by the provisions of this chapter shall be conducted by the Administrator pursuant to the County's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in this chapter.

Upon determination of a violation of this chapter, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the development activities on the site be stopped until the specified corrective measures have been taken. The stop work order shall be served in the same manner set out in subsection (c), above, for a notice to comply.

Sec. 23.3-21 – 23.3-25. Reserved.

ARTICLE III. VIOLATIONS

Sec. 23.3-26. Hearings on appeals

(a) Any permit applicant or permittee, or person subject to the requirements of this chapter, aggrieved by any action of the county taken without a formal hearing, or by inaction of the county, may demand in writing a formal hearing by the Chesapeake Bay Board, provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action is given by the Administrator.

(b) The hearings held under this Section shall be conducted by the Chesapeake Bay Board at its next available regular meeting which is at least 20 working days following the filing of notice of appeal with the Administrator. The appealing party may be represented by counsel or other representative, and may call witness for the purpose of testifying or providing evidence.

(c) A verbatim record of the proceedings of such hearings shall be taken and filed with the clerk for the Chesapeake Bay Board. Depositions may be taken and read as in actions at law.

(d) The Chesapeake Bay Board shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the Chesapeake Bay Board, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions, to be paid by the party at whose request the witness was summoned or subpoenaed.

(e) A nonrefundable processing fee of $250.00 shall accompany each application for an appeal.

Sec. 23.3-27. Appeals to Circuit Court

Any person, including the county, aggrieved by a decision of the Chesapeake Bay Board made pursuant to section 23.3-26, may seek judicial review of such decision in the Circuit Court for York County provided that a notice of appeal is filed with the Chesapeake Bay Board and the circuit court within 10 days of the date of the decision appealed from. As specified in Code of Virginia § 62.1-44.15:46, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to such appeals. Unless otherwise provided by law, the circuit court shall conduct such review in accordance with the standards established in § 2.2-4027, and the decisions of the circuit court shall be subject to review by the Court of Appeals.

Sec. 23.3-28. Illicit Discharges a Violation

(a) It shall be a violation to:

(1) Discharge, or cause or allow to be discharged, sewage, industrial wastes or other wastes into the storm sewer system, or any component thereof, or onto driveways, sidewalks parking lots or other areas draining to the storm sewer system; or

(2) Connect, or cause or allow to be connected, any sanitary sewer connected to the storm sewer system as of the date of adoption of this article; or

(3) Throw, place or deposit or cause to be thrown, placed or deposited into the storm sewer system anything that impedes or interferes with the free flow of stormwater therein.

Sec. 23.3-29. Enforcement

(a) If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.

(2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the county, or by personal delivery by

an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 23.3-29(c)

(b) In addition to any other remedy provided by this chapter, if the Administrator determines that there is a failure to comply with the provisions of this chapter, the Administrator may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the appeals procedure set forth in section 23.3-26.

(c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, chapter, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the York County circuit court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

(d) Any person who violates any provision of this chapter or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed $32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(1) Violations for which a penalty may be imposed under this subsection shall include but not be limited to the following:

(i) No state permit registration;

(ii) No SWPPP;

(iii) Incomplete SWPPP;

(iv) SWPPP not available for review;

(v) No approved erosion and sediment control plan;

(vi) Failure to install stormwater BMPs or erosion and sediment controls;

(vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;

(viii) Operational deficiencies;

(ix) Failure to conduct required inspections;

(x) Incomplete, improper, or missed inspections; and

(xi) Discharges not in compliance with the requirements of Section 9VAC25-880-70 of the general permit.

(2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(3) In imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.

(4) Any civil penalties assessed by a court as a result of a summons issued by the county shall be paid into the treasury of the county to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the county and abating environmental

pollution therein in such manner as the court may, by order, direct.

(e) Notwithstanding any other civil or equitable remedy provided by this section or by law, any person who willfully or negligently violates any provision of this chapter, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than $2,500 nor more than $32,500, or both.

ARTICLE IV. FEES AND SURETY

Sec. 23.3-30. Fees Chapter

(a) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the Applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to Table 1.

(b) Fees to cover the costs associated with erosion and sediment control (E & SC) plan review and inspection shall be imposed in accordance with requirements of the VESCP authority and section 10-13 of the Code.

Table 1: Fees for permit issuance

Fee type	**Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)**	**Department portion of "total fee to be paid by Applicant" (based on 28% of total fee paid*)**
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre) and single family lots with disturbance up to 5 Acres	$290	$0
General/Stormwater Management - Small Construction Activity/Land Clearing non- residential (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	$290	$81
General/Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres) excludes single family lot.	$2,700	$756
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	$3,400	$952
General/Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	$4,500	$1,260

General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$6,100	$1,708
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	$9,600	$2,688

* If the project is completely administered by the Department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the Department.

(c) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the county, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	$20
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	$200
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	$250
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	$300
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$450
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	$700

(d) The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	$50
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	$50
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	$400
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	$500
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	$650
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$900
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	$1,400

General permit coverage maintenance fees shall be paid annually to the county, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

(e) The fees set forth in Subsections (a) through (d) above, shall apply to:

(1) All persons seeking coverage under the general permit.

(2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.

(3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater from Construction Activities.

(4) Permit and permit coverage maintenance fees outlined under Section 23.3-30(d) may apply to each general permit holder.

(f) No general permit application fees will be assessed to:

(1) Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.

(2) Permittees whose general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

(g) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any

incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The county shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

Sec. 23.3-31. Performance Bond

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the county attorney , to ensure that measures could be taken by the county at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the county takes such action upon such failure by the Applicant, the county may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

CODE OF THE COUNTY OF YORK

Chapter 24

RESERVED

CODE OF THE COUNTY OF YORK

Chapter 24.1

ZONING

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APPENDIX A
APPENDIX B

ARTICLE I. IN GENERAL

Sec. 24.1-100. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance." Any reference to this chapter shall be deemed to include both the text of this chapter and the zoning map, and all subsequent amendments thereto.

Sec. 24.1-101. Purpose.

(a) The zoning ordinance is designed and adopted in accordance with the direction provided by the York County Comprehensive Plan, specifically the Comprehensive Plan, *Charting the Course to 2010,* adopted December 5, 1991, as amended, to promote, in accordance with present and probable future needs and resources, the health, safety, order, convenience, prosperity, and general welfare of the citizens of the county. To these ends the zoning ordinance is designed to give reasonable consideration to each of the following, where applicable:

(1) to provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;

(2) to reduce or prevent congestion in the public streets and facilitate the use of all transportation modes;

(3) to facilitate the creation of a convenient, attractive and harmonious community;

(4) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements and to ensure the effective management and stewardship of the public investment in same;

(5) to protect against destruction of or encroachment upon historic areas;

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

(7) to encourage economic development activities that provide desirable employment and enlarge the tax base;

(8) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;

(9) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;

(10) to promote affordable housing;

(11) to promote the proper use, management, and protection of sensitive and unique lands that contribute positively to the economy of the region, and the environmental quality of county lands and adjacent waters; and

(12) to protect the water resources of the county, including groundwater, surface water, and those geological and ecological features that contribute to water quality and quantity.

(b) The zoning regulations and districts established herein have been drawn and applied, and shall be so applied in the future, with reasonable consideration for:

(1) the direction provided by the comprehensive plan, and especially the land use element;

(2) the existing use and character of property and surrounding properties;

(3) the suitability of property for various uses;

(4) the trends of growth or change;

(5) the current and future requirements of the community as to land for various purposes as determined by population, economic, and other studies;

(6) the county's need for transportation, utilities, housing, schools, parks and recreation areas, and other public services and the need to effectively manage the public investment in the same;

(7) the conservation of natural resources;

(8) the preservation of floodplains;

(9) the preservation of agricultural and forestal lands; and

(10) the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the county.

Sec. 24.1-102. Effective date.

(a) This chapter shall be effective on 12:01 a.m., June 29, 1995, at which time chapter 24, *Zoning*, York County Code, and all amendments thereto shall be repealed.

(b) The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county under any provision in effect prior to the effective date of this chapter, unless expressly provided for in this chapter.

Sec. 24.1-103. General rules of interpretation.

For the purpose of this chapter, certain words and terms shall be interpreted as follows:

(a) Words used in the present tense include the future tense; words in the singular number include the plural, and the plural number includes the singular unless the obvious construction and context of the wording indicates otherwise;

(b) The word ″shall″ is a mandatory requirement; the words ″may″ and ″should″ are permissive requirements;

(c) The word ″lot” includes the words plot, parcel, premises, site.

(d) The word ″includes″ does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind, character, or class;

(e) The phrase ″used for″ includes the phrases arranged for, designed for, intended for, maintained for and occupied for;

(f) The terms "land use" and "use of land" shall be deemed also to include building use and use of building;

(g) The word "adjacent" means nearby and not necessarily contiguous; the words abutting or contiguous mean touching and sharing a common point or line;

(h) The word "person" includes individuals, partnerships, corporations, clubs or associations;

(i) Any reference to "this ordinance" or "this chapter" shall mean the zoning ordinance.

(j) References to sections of the Code of Virginia or the York County Code are applicable as of the effective date of this chapter. Subsequent changes to those sections, including renumbering, shall be deemed to be incorporated herein, *mutatis mutandis*.

(k) Any references to Metric (SI) units shall be disregarded and English units shall be used and shall control for all dimensional requirements in this chapter.

(l) References to supplementary documents, publications or regulatory materials shall be deemed to include any subsequent amendments, re-printings, updates or replacement volumes.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-104. Definitions.

Abandoned inactive borrow pit. An area of land which has been disturbed by surface mining or excavation and which has not been reclaimed or restored and in which mining activity is not currently underway and is not authorized to be reestablished by the terms of a valid use permit.

Accessory apartment. See Dwelling, Accessory unit.

Accessory structure. A subordinate structure detached from a principal structure, but located on the same lot, the use of which is incidental and subordinate to that of the principal structure or use.

Accessory use. A use of land or of a building, or portion thereof, incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Administrative permit. A permit which may be issued by the zoning administrator for certain types of uses identified in this chapter upon demonstration of compliance with all applicable standards, criteria and procedures for issuance as established herein.

*Agriculture. T*he use of land for a bona fide agricultural operation involving the production for sale (but not the processing) of plants, animals, and agricultural products useful to man and including tilling of the soil, the raising of crops, horticulture, the keeping of agricultural animals and fowl, dairy and poultry operations, or any other similar and customary agricultural activity, but, for the purposes of this chapter not aquaculture, and including the customary accessory uses, among which may be a single-family detached residence, and accessory equipment normally associated with agricultural activities. Fruit, vegetables, eggs and honey are deemed agricultural products only prior to processing of any kind other than washing.

Aisle, traffic. The traveled way by which cars enter and depart spaces in parking lots.

All-weather surface. A surface which is passable in all weather conditions and is designed to support all reasonably anticipated loads in all weather conditions. An all-weather surface may be either pervious or impervious, however, it must not produce dust.

Alteration. As applied to a building or structure, means a change or rearrangement in the structural parts or in the means of egress, or an enlargement, whether by extending on a side or increasing in height, or moving of a building or structure from one location or position to another.

Amusement arcade. A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

Animal, agricultural. All livestock and poultry.

Animal, boarding establishment. A place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

Animal, companion. Any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, Vietnamese potbellied pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals.

Animal dealer. Any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barters companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered a dealer.

Animal pound. A facility operated by the Commonwealth, or any political subdivision, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

Animal shelter. A facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Antenna. Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

Aquaculture. The propagation, rearing, enhancement, and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water. Aquaculture also includes the land-based and pier-based aspects of aquaculture, including but not limited to shellfish aquaculture, conducted off-shore in marine waters, including but not limited to the docking of workboats, the off-loading of seafood, the on-land storage and maintenance of associated cages, floats, equipment, supplies and other materials, and their transfer from land to boat or boat to land.

Aquaculture facility. Any land, structure, or other appurtenance that is used for aquaculture, including any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.

Arborist. An individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees. This definition shall also incorporate the term urban forester.

Architect. An individual licensed by the Commonwealth of Virginia to practice architecture.

Architect, landscape. An individual certified by the Commonwealth of Virginia to practice landscape architecture.

Area of influence. (also referred to as service or trade area) The area from which a land use draws its customers or users or from which it can be reasonably expected to draw.

Automobile graveyard. An operation involving the dismantling or wrecking of used motor vehicles or trailers, or the storage, sales, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been removed for reuse or sale, shall constitute prima-facie evidence of an automobile graveyard.

Automobile storage lot. An operation involving the temporary storage (typically ninety (90) days or less) of operable motor vehicles. This shall specifically include vehicle impound areas.

Average daily traffic (ADT). The average number of vehicles per day which pass over a given point on a roadway.

Bed and breakfast inn. A dwelling in which, for compensation, breakfast and overnight accommodations are provided for transient guests. When the establishment is located in a residential zoning district, the owner of the property shall live on the premises or in an adjacent premises and shall be the operator/provider of the bed and breakfast accommodations and services.

Berm. A mound of earth used to shield, screen, or buffer views, separate land uses, provide visual interest, decrease noise, or control the direction of water or traffic flow.

Best management practice (BMP). A practice, or combination of practices, that is determined by a state or the Hampton Roads Planning District Commission to be the most effective, and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Bikeway. A transportation facility designed to safely accommodate bicycle traffic. As defined in the comprehensive plan, bikeways are subdivided into three (3) general classes:

< *Class I* - bikeway is physically separated from the roadway by open space, a physical barrier, or both.

< *Class II* - bikeway is a designated and marked lane immediately adjacent to the travel lanes of a roadway.

< *Class III* - bikeway shares travel lanes of a roadway with other vehicles. Lanes may be wider to accommodate cyclists, but no specific lane designations are made.

Billboard. A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Board. The Board of Supervisors of York County, Virginia.

Boarding or lodging house. A dwelling other than a hotel, motel, bed and breakfast inn, or tourist home where, for compensation, meals or lodging are provided for three (3) or more nontransient guests.

Boathouse. An accessory structure which is constructed either wholly or partially over a body of water and which is designed primarily to provide shelter for water craft or for marine related equipment.

Borrow Pit. See Surface mine.

Bottom ash. Particulate matter, resulting from the burning of pulverized coal or other fossil fuel, which is collected from the floor of a boiler, furnace or combustion chamber.

Buffer. An area, fencing, landscaping, or a combination thereof which is used to separate one use from another or to shield or block noise, lights, glare, pollutants or other potential or actual nuisances.

Building. Any structure having a roof supported by columns or walls, including modular and prefabricated buildings, which is used for the shelter, housing, or enclosure of persons, animals, or chattels. Unless specifically exempted, all buildings must be constructed in accordance with all applicable provisions of the Virginia Uniform Statewide Building Code.

Building height. For the purposes of determining compliance with the maximum building height limits set forth in the various zoning districts established by this chapter, building height shall be measured, unless otherwise noted, as the vertical distance to: the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mid-point between the eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than ten feet (10') from the front lot line or from the average grade surrounding the structure in all other cases. In other instances where building or structural height is stipulated or addressed, “height” shall be measured to the roof ridgeline for gable, hip and gambrel roofs, to the highest part of the roof for other roof systems, and to the highest part of other structures, with all such measurements to be taken from the curb or from average grade, as provided in the preceding sentence.

Caliper. The diameter of a tree trunk measured six inches (6") above ground level for nursery stock and four and one-half feet (41/2') above ground level for all other trees.

Campground. An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and is operated in accordance with all applicable health department regulations for campgrounds.

Catering kitchen. A facility in which food is prepared and cooked in quantity and then transported from the premises by the caterer for off-premises serving and consumption at special events, receptions, parties, or similar activities.

Cemetery. Means any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery. For the purposes of this chapter, all uses necessarily or customarily associated with internment of human remains, benches, ledges, walls, graves, roads, paths, landscaping and soil storage shall be considered part of the allowable “cemetery” use.

Certificate of occupancy. A document issued by the county pursuant to the Virginia Uniform Statewide Building Code permitting the occupancy or use of a building.

Child care center. A facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during a part of the day only, and operated in accordance with the provisions of section 63.2-1700, et seq., Code of Virginia.

Clear-cutting. The removal of more than twenty-five percent (25%) of the trees, shrubs, or undergrowth from a site with the intention of preparing real property for nonagricultural development purposes. This definition shall not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed, removal of dead trees, or normal mowing operations.

Clinic or emergency care center. An establishment where persons who are not lodged overnight are admitted for examination and treatment by a group of physicians or similar professionals practicing together.

Cluster subdivision. A form of residential development that concentrates dwellings in a specified area with a corresponding reduction in lot area and dimension requirements in order to allow the remaining land area to be devoted to perpetual common open space which may be used for recreation, both active and passive, and the preservation of environmentally sensitive areas. (See Figure I-1 in Appendix A.)

Code. Wherever the term "Code" is used, without further qualification, it shall mean the Code of the County of York, Virginia, as designated in section 1-1.

Commission. The York County Planning Commission.

Community center. A meeting place, either a building or a complex of buildings, used for recreational, social, educational and cultural activities.

Comprehensive plan. The York County Comprehensive Plan including all elements thereof and such elements as may hereafter be adopted in accordance with the provisions of section 15.2-2223, et seq., Code of Virginia.

Concession stand, information booth, display booth. A temporary structure established as an accessory use to a special event or celebration and from which items are sold or displayed.

Condominium. A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis and which has been created by the recordation of condominium instruments pursuant to the provisions of chapter 4.2 of title 55, Code of Virginia.

Condominium association. The community association which administers and maintains the common property and common elements of a condominium.

Conservation easement. An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded conditions; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses.

Contractor. Any person, firm, association, or corporation that for a fixed price, commission, fee or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled or leased by another person, or any other improvements to such real property including but not limited to clearing, grading or excavation.

Contractor's shops and storage yards. Facilities and areas which are customarily used by contractors for storage of supplies, materials or equipment, fabrication, assembly or repair of materials or equipment, or places for vehicular and equipment storage.

Convenience store. A store offering for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast-food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales when in accordance with all applicable requirements of this chapter.

Convent/Monastery. A facility housing a group of individuals devoted to a religious life and existence, such as a group of monks, friars, or nuns, and in which the inhabitants live in a communal manner as a single residential unit with various shared facilities such as, but not necessarily limited to, cooking and meal preparation.

Conventional subdivision. The subdivision of a lot in accordance with both the lot size and dimension standards specified for the district in which located and the subdivision ordinance.

County. The word "county" shall mean the County of York in the State of Virginia unless otherwise designated.

County administrator. The county administrator of York County, Virginia, as appointed by the board, or his or her designee.

County attorney. The county attorney of York County, Virginia, as appointed by the board.

Court or plaza. An open, uncovered space, other than a yard, which may or may not have direct street access, and around which is arranged a single building or a group of related buildings.

Cul-de-sac. A minor street with only one (1) outlet and having an adequate turn-around at its terminus for the safe and convenient reversal of traffic movement.

Cut. A portion of the land surface or area from which earth has been or will be removed by excavation.
Density. The number of dwellings per unit of land.

< *Gross density*. Gross density is calculated by including all the land within the boundaries of a particular tract, parcel or area.

< *Net density*. Net density is calculated by excluding certain areas such as streets, easements, water areas, lands with environmental constraints, and such other areas as are specifically described in section 24.1-203.

Design hour. The peak traffic situation on a given street or at a given intersection expected to occur within a one-hour period during a typical day in the year a development is scheduled to be completely developed.

Design year. The year in which a development project is anticipated to be completely constructed and occupied, or twenty (20) years from initial development, whichever shall be later.

Detention basin. A manmade or natural water impoundment designed to collect surface and subsurface water in order to impede its flow and to release it gradually, at a rate not greater than that existing prior to the development of the property, into natural or manmade outlets or channels. Also referred to as a "dry pond."

Developer. The legal or beneficial owner or owners of a lot or of any land included in a given development including the holder of an option or contract to purchase, or other persons having an enforceable proprietary interest in such land.

Development. The division of land into two or more parcels, or the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, paving, grading, filling or land disturbance, or any use or extension of the use of land; provided however, as stipulated by Section 15.2-2201 of the Code of Virginia, the term shall not be construed to include any tract of land which will be principally devoted to agricultural production.

District or zoning district. A classification set out in this chapter and defined by a prescribed set of requirements and regulations which, when applied to a portion or portions of the county, uniformly governs the use of land and buildings within such areas.

Drainage. The removal of surface water or groundwater from land by drains, ditches, piping, grading, or other means.

Drainage facility. Any component of a drainage system.

Drainage structure. Any manmade component of a drainage system.

Drainage system. A system through which water flows from land, including all drainage structures, drainage facilities, watercourses, waterbodies and wetlands.

Drive-in establishment. An establishment which by design, physical facilities, service, or by method of sale encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dry-Cleaning / Laundry (retail): An apparel service establishment of less than 7,500 square feet in floor area that offers laundry and dry-cleaning service primarily to retail customers who bring their clothing and other articles to the premises. The establishment may include on-premises laundering and dry-cleaning equipment. In addition to servicing walk-in retail customers, the establishment may also include laundering/dry-cleaning of articles delivered from other drop-off locations.

Dry-Cleaning / Laundry Plant (institutional): Any establishment that:

(i) has in excess of 7,500 square feet in floor area engaged in laundering and dry-cleaning services; or

(ii) is engaged primarily in providing on-premises laundering and dry-cleaning services for large

commercial or institutional accounts. This type of operation is also characterized by extensive truck traffic.

Drugstore. A pharmacy where the sale of non-drug, non-proprietary medications and other non-pharmaceutical items constitutes a portion of the retail business.

Dwelling. A building or portion thereof designed or used for residential purposes, but not including hotels, motels, motor lodges, tents, travel trailers, recreational vehicles, or similar accommodations.

Dwelling, modular. A type of single-family detached dwelling unit which is constructed in units which are movable, but not designed for regular transportation on highways, and which are designed to be constructed on and supported by a permanent foundation and not by a chassis (i.e., supporting rails) permanently attached to the structure and which meet the requirements of the Virginia Uniform Statewide Building Code. Structures constructed in accordance with the terms of the Virginia Industrialized Building Safety Regulations shall not be deemed “modular units” if they include a permanently attached chassis (i.e., supporting rails). If such chassis system can be removed and the unit can be supported by a permanent foundation meeting the requirements of the Virginia Uniform Statewide Building Code, then it shall be deemed a “modular unit.”

Dwelling, multi-family. A building or building arrangement consisting of two (2) or more dwelling units on a single lot.

Dwelling unit. A single unit of one or more rooms providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation.

< *Dwelling, accessory unit/ apartment*. A separate and complete housekeeping unit which provides complete and independent living, sleeping, and sanitation facilities, and which may or may not include permanent cooking facilities. Such unit may be contained within or outside of a primary residence but is clearly secondary to a primary single-family dwelling located on the same lot. When in a detached structure, the presence of a habitable room or rooms, as defined by the Virginia Uniform Statewide Building Code, including a living area and a bathroom with sink, toilet and tub or shower shall be considered to constitute an accessory apartment. When such habitable space is a part of the principal structure on the property, the presence of an independent entrance, a bathroom with sink, toilet, and tub / shower, and physical separation (by walls or floors) from the principal residence shall be deemed to constitute an accessory apartment.

< *Dwelling, single-family attached*. A row or combination of at least two one-family dwelling units constructed in accordance with the terms of the Virginia Uniform Statewide Building Code, with each unit having separate outside access, each unit separated from any other unit by one or more common fire-resistant walls, and each unit located on a separate lot. The term "single-family attached" includes the following types of dwellings:

- *Duplex*. A one-family dwelling unit attached to one other one-family dwelling unit by a common vertical fire-resistant wall with each dwelling unit located on a separate lot.

- *Multiplex*. A one-family dwelling unit in a combination (back-to-back, side-to-side, or back-to-side) of at least three such units with each unit having at least two exterior walls, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.

- *Townhouse.* A type of multiplex unit, in a row of at least three such units, with each having its own front and rear or side access to the outside, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.

< *Dwelling, single-family detached*. A one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. Such units shall be constructed in accordance with the terms of the Virginia Uniform Statewide Building Code and may include “modular units” if consistent with the definition and standards contained in this chapter.

Easement. A grant by one property owner to another, evidenced by a deed recorded with the clerk of the circuit court, of the right to use the described land for a specific purpose.

Engineer. An individual licensed by the Commonwealth of Virginia to engage in the practice of engineering.

Environmental constraints. Features, natural resources, or land characteristics that are sensitive to development activities or installation of improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment when developed.

Environmentally sensitive areas. Areas with one (1) or more of the following characteristics:

< slopes in excess of twenty percent (20%);

< 100-year floodplains;

< tidal or nontidal wetlands;

< land formerly used for landfill operations or hazardous industrial or commercial use; or

< Chesapeake Bay Preservation Areas

Erosion. The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, or gravity.

Family. An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) unrelated persons, occupying a single dwelling unit. For purposes of single-family residential occupancy, and in accordance with Section 15.2-2291.A. of the Code of Virginia, the term also shall be deemed to include no more than eight (8) individuals with mental illness, intellectual disability, or developmental disabilities, together with one (1) or more resident or nonresident staff persons, living in a residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to the Code of Virginia.. Mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401, Code of Virginia.

In addition, in accordance with Section 15.2-2291.B. of the Code of Virginia, the term family shall be deemed to include no more than eight (8) individuals who are aged, infirm or disabled, together with one or more resident counselors or other staff persons, living in a residential facility for which the Department of Social Services is the licensing authority pursuant to the Code of Virginia.

Farmer's market. A place where farmers or other people who are engaged in truck farming gather regularly for the purpose of selling produce, goods and crafts produced at their farms. The sale of seafood is included in this definition.

Fill. The portion of land surface or area into which sand, gravel, earth, or other material is deposited to raise the elevation above the natural grade.

Fire department. The York County Fire and Rescue Service.

Fire flow. The flow of water in pipes at a rate and time duration necessary for fire suppression purposes.

Flag lot. (See Lot types.)

Flea market. An open area in which stalls or sales areas are set aside and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. This definition shall not be construed to include sidewalk sales by retail merchants, fruit or produce stands, bake sales, or garage, yard or rummage sales held in conjunction with and incidental to residential uses or sponsored and conducted by religious, civic or charitable organizations on their own property.

Floodplain. (See section 24.1-373)

Fly ash. Fine particulate matter resulting from the burning of pulverized coal or other fossil fuel which is collected from flue gases.

Forest management plan. A written plan for the operation of a forest or woodland property utilizing accepted professional forestry principles which records data and prescribes measures designed to provide for the optimum use of all forest resources.

Forestry. The development or maintenance of a forest or woodland area under a forest management plan. Included are establishments engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or other silvicultural activities.

Fowl. Any domesticated or wild gallinaceous birds such as chickens, turkeys, grouse, pheasants and partridges.

Frontage. The distance along which a lot abuts a legally accessible street right-of-way.

Full cut-off luminaire. An outdoor lighting fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane defined by the fixture.

Geodetic control network. A system of survey monuments whose precise positions have been established and from which additional surveys can be derived. The geodetic control network in York County has two components:

< *Primary network*. A system of one hundred thirty (130) survey monuments located throughout the county, the precise positions and elevations of which have been established by rigorous ground and global positioning surveys, and which are fully referenced to the Virginia Coordinate System of 1983 (South Zone) and the 1983 North American Datum.

< *Secondary network*. A system of survey monuments located in and on subdivision boundaries and rights-of-way, the positions of which have been established by ground surveys.

Glare. A sensation of brightness within a person's visual field sufficient to cause annoyance, discomfort, distraction or loss of visual performance and visibility.

Government office. Any room, clinic, suite or building wherein the primary use is to conduct York County business such as accounting, correspondence, editing, enforcement, research, administration, analysis or maintenance operations. Included within this definition shall be the health department, social services department, school board administration and other similar functions and agencies.

Grade. The average of the finished ground level measured along a line ten feet (10') [3m] from all sides of the building.

Group home. A dwelling unit shared by more than four (4) unrelated disabled persons who live together as a single housekeeping unit which does not qualify as a “family” as defined in this chapter, and in which resident or non-resident staff persons provide or facilitate care, education, and participation in community activities for the residents with the primary goal of enabling persons who are intellectually, developmentally or physically disabled, or who because of age or physical infirmity, require the protection or assistance of a group setting, to live as independently as possible in order to reach their maximum potential, and for which the Virginia Department of Behavioral Health and Development Services or the Virginia Department of Social Services is the licensing authority. As used herein, the term "disabled" shall mean having:

- A physical or mental impairment that substantially limits one or more of a person's major life activities so that such person is incapable of living independently; or
- A record of having such an impairment; or
- Being regarded as having such an impairment.

"Disabled" shall not, however, include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

Hardware Store. A facility of 30,000 or fewer square feet gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies and cutlery; if greater than 30,000 square feet, such a facility is a “Home Improvement Center.”

Health department. The Commonwealth of Virginia Department of Health or an authorized official thereof.

Helipad. An area, either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and any vertical takeoff and landing craft.

Heliport. A helipad including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Highway or roadway capacity. The maximum number of vehicles that can be expected to travel over a given section of roadway or a specific lane during a given time period under prevailing roadway conditions and prevailing traffic patterns and conditions.

Home Improvement Center. A facility of more than 30,000 square feet gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies, and cutlery.

Home occupation. An accessory use of a dwelling unit or the property upon which it is located by the occupant of the dwelling for or with the intent of gainful employment involving the provision of goods or services.

Hospital, general care facility. An institution rendering medical, surgical or obstetrical care on an inpatient or outpatient basis.

Hotel. A facility offering transient lodging accommodations to the general public and frequently providing additional services such as meeting rooms, restaurants, entertainment, and recreational facilities.

Household pet. Animals that are typically and customarily kept for company or pleasure in the house or yard including: domesticated rabbits; hamsters; ferrets; gerbils; guinea pigs; Vietnamese potbellied pigs; pet mice and pet rats; turtles; fish; dogs; cats; birds such as canaries, parakeets, doves and parrots; non-poisonous spiders; chameleons and similar lizards; and non-poisonous snakes. Agricultural animals, game and wild species or hybrids thereof, poisonous snakes, or animals regulated under federal law as research animals shall not be considered as household pets.

Impervious surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt or compacted aggregate surface.

Improvements. All public and quasi-public utilities and facilities including streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, monuments, signs, sidewalks, streetlights, and all other similar features required by this chapter.

Industrial park. A comprehensively planned and unified, industrially oriented development containing at least two (2) separate buildings on at least five (5) acres and protected by covenants and restrictions designed to control such things as architectural design or building facades, landscaping, screening, buffering, and environmental protection. Industrial parks typically have a mixture of industrial, service, office, and commercial activities and are designed to incorporate aesthetic and service amenities for the employees and patrons of the uses located within the park.

Infiltration yard. An area which is designed and located to allow stormwater runoff to filter through it and to take advantage of the natural absorption and filtering qualities of the soil and vegetation, thereby reducing the volume and rate of total stormwater runoff and impacts on water quality.

In-fill development. The development of small, scattered vacant sites which are surrounded or essentially surrounded by existing development and which because of location, configuration, access requirements, adjacent development patterns, or similar characteristics, may necessitate special consideration during the development process.

Junk. Old, dilapidated, discarded or scrap copper, brass, plastic, rope, rags, furniture, beds and bedding, batteries, bottles, glass, appliances, paper, trash, rubber, debris, building material waste, tools, implements, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

Junkyard. An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard.

Kennel, commercial. Any land or structure in which canines, felines, or hybrids of either, are kept for the purpose of breeding, hunting, or training, renting, buying, boarding, selling or showing.

Kennel, private. Any land or structure used for the keeping, breeding, or care of five (5) or more canines, felines, or hybrids of either, which are over six months of age and which belong to the owner of the premises and which are kept for the purpose of showing, hunting, or as household pets.

Landscape yard. A designated area within which trees, plants and lawns are cultivated and also including other natural materials such as rock, wood chips, mulch, and decorative features, including sculpture, trellises, fountains and pools, and walkways.

Landscaping. The improvement of a lot or parcel with grass, groundcovers, shrubs, trees, other vegetation or ornamental objects. Landscaping may include earthforms, flower beds, ornamental objects such as trellises or fountains and other natural features.

Land surveyor or surveyor. An individual certified and licensed by the Commonwealth of Virginia to engage in the practice of land surveying.

Level of service (LOS). A set of criteria which describes the degree to which an intersection, roadway, lane configuration, weaving section or ramp serves peak period or daily traffic.

Livestock. Includes all domestic or domesticated animals that are typically characterized as farm animals including without limitation horses, ponies, bison (American buffalo), cattle, sheep, goats, alpacas, llamas, poultry, or other similar animals specifically raised for food or fiber, except household pets. Vietnamese pot-bellied pigs (sus scrofa vittatus) which are kept as household pets are excluded from this definition.

Loading space, off-street. A space within a main building or on the premises which provides for the standing, loading, or unloading of trucks or other delivery vehicles, and including any area necessary for ingress and egress.

Lot. A unit, division, or piece of land, generally created as a result of the subdivision of property. The term is synonymous with plot, parcel, premises, and site.

Lot area. The total computed area of a lot as defined by the closure of the rear, side and front lot lines.

Lot depth. The depth of a lot shall be the average distance between the front and rear lot lines.

Lot line. A line dividing one lot from another lot or from a street or alley. (See Figure I-2 in Appendix A)

Lot line, front. Any street or right-of-way line, whether public or private, which forms the boundary of a lot or such other property boundary as determined to be a “front lot line” by the zoning administrator pursuant to the terms of article ll, General Regulations, of this chapter.

Lot line, rear. The lot line or lines opposite and most distant from and most nearly parallel to the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet (10') in length entirely within the lot, parallel to and at a maximum distance from the front lot line. The rear lot line on corner, through and flag lots shall be such line as determined in accordance with the procedures set forth in article ll of this chapter.

Lot line, side. Any lot line other than a front or rear lot line, as defined herein.

Lot of record. Any lot created by recordation of a plat in the office of the clerk of the circuit court provided that:

< Such lot and plat complied fully with all zoning and subdivision regulations in effect at the time of such recording; or,

< Such lot or plat was not in conformance with the regulations contained in the zoning ordinance or subdivision ordinance at the time of said recordation, but has become conforming by subsequent amendment of said regulations.

Lot types. (See Figure I-3 in Appendix A)

< *Corner lot.* A lot abutting two (2) or more streets at their intersection, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135E).

< *Interior lot.* A lot other than a corner lot.

< *Flag lot*. A lot which does not abut a public street other than by its driveway or other strip of land not meeting the required minimum frontage standards.

< *Reverse frontage lot*. A through lot from which access is not available or permitted from one of the parallel or nonintersecting streets upon which it fronts. Such limitations on access are intended primarily to prevent congestion and safety hazards on arterial streets as defined in the subdivision ordinance.

< *Through lot*. An interior lot abutting two or more streets.

Lot width. The width of a lot shall be determined as follows (See Figure I-2 in Appendix A):

< If the side lot lines are parallel, the distance between these side lines, measured perpendicularly at the minimum required front yard setback line for the district in which located;

< If the side lot lines are not parallel, the width of the lot shall be the length of a line measured at right angles to the axis of the lot at a point which is equal to the required minimum front yard setback for the district in which located. The axis of a lot shall be a line joining the midpoints of the front and rear lot lines.

Main-line utilities. Within each type of utility system, such as sewer, gas, or water, the principal artery or arteries of the system to which individual lots or buildings may be connected.

Manufacturing. Mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials.

Manufactured home. A structure subject to federal regulatory standards (42 U.S.C. section 5401, the National Manufactured Home Construction and Safety Standards Act), which is transportable in one (1) or more sections; is eight feet (8') or more in width with a body forty feet (40') or more in length in traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. For the purposes of this chapter, a manufactured home shall not be deemed a single-family detached dwelling or a modular dwelling unit. Any transportable factory-built dwelling unit constructed prior to the enactment of Home Construction and Safety Standards Act of 1974 or which does not meet such standards together with any manufactured home which has been modified to the extent that it is no longer capable of use for residential occupancy purposes or which has had factory installed appliances removed rendering the unit uninhabitable, shall be deemed a trailer for the purposes of this chapter.

Manufactured home park. A parcel of land with necessary improvements and utilities which is designed to accommodate two (2) or more manufactured homes on individual spaces but without transfer of title to such spaces.

Manufactured home subdivision. A subdivision designed and developed in accordance with all applicable requirements of the R7--Manufactured Home Subdivision District--of this chapter and in which individual lots are available for placement of manufactured homes and transfer of title.

Marina. A facility designed for docking, storing, servicing, berthing, fueling or repairing of primarily recreational boats and which may include accessory restaurant and retail facilities. Marinas may include in-water berths/slips which are covered or uncovered, dry berths/slips for boat storage on land, either indoors or outdoors, and provisions for transfer of boats to and from the water by means of ramps or mechanical equipment.

Microbrewery/micro-distillery/micro-winery/micro-cidery. A facility for the small-scale production and packaging of alcoholic beverages/spirits of the following types and quantities for distribution, retail or wholesale, on or off the premises: beer (not more than 15,000 barrels per year), distilled spirits, wine, or alcoholic cider (not more than 20,000 gallons per year). Permitted accessory uses shall include retail sales, tasting rooms for beverages produced on-site, restaurants, reception halls, and live entertainment as otherwise permitted in the zoning district.

Mini-storage warehouse. A type of warehousing consisting of individual, small, self contained storage spaces which may be owned, leased, or rented to individuals. Such facilities may also be known as self-storage warehouses. For the purposes of this chapter, the two types of mini-storage warehouse/self-storage facilities are:

- Single-story: Facilities in which the storage units/cubicles typically are arranged in long, narrow single-story buildings with the majority of the individual units accessed through doors that open directly to the outside.

- Multi-story: Facilities in which the storage units are arranged in a multi-story structure with all of the individual storage units/cubicles accessed through doors that open to interior corridors.

Mixed-use development. Property that incorporates two or more different principal uses (typically residential and commercial) within a single planned development under a single master plan.

Mobile Food Vending Vehicle (Food Trucks) – A self-propelled or towed vehicle licensed by the Department of Motor Vehicles, containing a mobile kitchen in which food and non-alcoholic beverages are stored and prepared, which is not parked on public rights-of-way, and from which menu items are served in individual portions to walk-up customers. The term shall not include vehicles that traverse streets in residential areas to sell and dispense exclusively ice cream and similar frozen dessert products, nor shall it include mobile food concession vehicles (aka “chuck wagons”) that travel from construction site to construction site during the course of a day to sell and dispense pre-packaged food items to persons engaged in permitted work being conducted on the site.

Model home display park. A single parcel of land including two (2) or more non-industrialized unit model homes with such units intended for display purposes only and not used residentially. One (one) or more of such model homes may be used as a sales or business office.

Monument or survey monument. A permanent structure or edifice used or installed to mark the position of a survey station.

Motel. An establishment providing transient sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Nightclub. An establishment that offers alcoholic beverages for on-premises consumption, which is open for business after 11:00 p.m., and which also includes an area where patrons can dance to live or recorded music, or a stage or floor area from which live bands or solo artists perform music or entertainment. This term shall also include restaurants and commercial reception halls if they are open for business after 11:00 p.m., serve alcoholic beverages at a bar or at tables, and have a dance floor or performance area as described above. The term shall not include a restaurant in which live, non-amplified musical performances are offered as background entertainment for dining patrons, provided the restaurant does not have a dance floor.

Nonconforming lot. A lawfully created lot of record, the area, dimensions or location of which complied with the regulations in effect at the time of lot creation, but which fails by reason of adoption of or subsequent amendment to this chapter to conform to the present requirements of the zoning district in which located.

Nonconforming structure or building. A lawfully constructed structure or building, the size, dimensions or location of which complied with the regulations in effect at the time of the construction, but which fails by reason of adoption of or subsequent amendment to this chapter to conform to the present requirements of the zoning district in which located.

Nonconforming use. A lawfully established use or activity which complied with the regulations in effect at the time of its establishment, but which fails by reason of adoption of or subsequent amendment to this chapter to conform to the present requirements of the zoning district in which located.

Nursing home. Rest homes, extended care homes, convalescent homes, or similar facilities which are established to render domiciliary or nursing care for chronic or convalescent patients and which are properly licensed by the state, but not including child care homes or facilities for the care of drug addicts, alcoholics, mentally ill or developmentally disabled patients.

Office. The facilities in which the administrative activities, record keeping, clerical work and other similar affairs of a business, profession, service, industry, or government are conducted and, in the case of professions such as dentists, physicians, lawyers or engineers, the facilities where such professional services are rendered.

Office park. A comprehensively planned and unified office oriented development containing at least two (2) separate buildings on at least five (5) acres [2ha] and protected by covenants and restrictions designed to control such things as architectural design, building facades, landscaping, screening, buffering and environmental protection. Office parks typically have a mixture of office, service, professional, and commercial activities and are designed to incorporate aesthetic and service amenities for the employees and patrons of the establishments located within the park.

Open space. An area that is intended to provide light and air, and is designed, depending upon the particular situation, for environmental, scenic or recreational purposes. Open space may include but need not be limited to, lawns, decorative plantings, bikeways, walkways, outdoor active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, greenways and water courses. The computation of open space shall not include driveways, parking lots or other surfaces designed or intended for motorized vehicular traffic.

Open space, common. Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of all the residents or property owners of the development.

Outdoor display. A temporary form of advertisement involving the arrangement of representative samples of items offered for sale on the premises of a business establishment in a neat and organized manner.

Outdoor storage. The keeping of any goods or materials, excluding junk or solid waste, outside of a building for a period of time comprising twenty-four (24) continuous hours or more.

Overlay regulations. Requirements, as specified in this chapter, which supplement and apply in addition to those normally applicable in a particular zoning district.

Parcel. A contiguous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

Parcel identification number. A number or series of numbers assigned by the county which uniquely identifies each parcel of land in the county.

Park. Any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking lot. An area not within a building where motor vehicles may be stored for the purpose of temporary, daily, or overnight off-street parking.

Parking, off-street. Space provided for vehicular parking outside the dedicated street right-of-way, and including any area necessary for ingress or egress.

Particulate. Any finely divided solid or liquid material.

Payday loan establishment. A place of business engaged in offering small, short-maturity loans on the security of (i) a check, (ii) any form of assignment of an interest in the account of an individual or individuals at a depository institution, or (iii) any form of assignment of income payable to an individual or individuals, other than loans based on income tax refunds. For the purposes of this chapter, such establishments shall not be construed to be “banks” or “financial institutions.”

Peak period. (also peak hour) The period or hour in which the heaviest traffic volume occurs on a roadway or within a network.

Performance guarantee. A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development.

Personal service establishments. Establishments primarily engaged in the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person, including barber shops, beauty parlors, laundering, cleaning and other garment services, tailors, shoe repair, and similar establishments.

Pet shop. An establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

Pharmacy, professional. An establishment solely devoted to the practice of dispensing drugs, medicines or medical chemicals and the compounding of prescriptions in accordance with State law.

Place of worship. A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. The term "place of worship" is not to be construed in any way to include private residences within which religiously related gatherings are conducted.

Plan approving agent. The individual responsible for the administration of the site plan requirements of this chapter and the approval of said site plans. The zoning administrator or designee shall serve as the plan approving agent.

Planned development. An area approved by the board and planned and developed under a single master plan and containing one (1) or more land uses.

Planting area. The area within which vegetation is installed which provides a sufficient bed to maintain and ensure the survival of trees and other vegetation.

Plat. A plan or map of a tract or parcel of land, meeting the requirements of this chapter and the subdivision ordinance, which is to be or has been subdivided. As a verb, the term is synonymous with subdivide.

Pool House. A detached accessory structure located on a lot containing a single-family detached residential structure and an accessory in-ground swimming pool. Such pool house may contain a bathroom consisting of a sink, toilet and shower, but not a bathtub.

Poultry. All domestic fowl and game birds raised in captivity.

Principal building or structure. A building or structure or, where the context so indicates, a group of buildings or structures, in which the primary use of a lot or parcel is conducted.

Principal use. The primary or main use of land or structures, as distinguished from a secondary or accessory use.

Private club. A building and related facilities owned and operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and not primarily for profit, and whose members meet certain prescribed qualifications for membership.

Private school. A school operated by private interests as a substitute for instruction required in state-supported public schools.

Property owners association. As defined in section 55-509, Code of Virginia, a property owners association means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in a declaration. The term includes homeowners' associations; however, it shall not include condominium, cooperative, timeshare, or membership owners associations.

Public sewer system. A sewer system owned and operated by a municipality, county, service authority or sanitary district.

Public water system. A water system owned and operated by a municipality, county, service authority or sanitary district.

Record drawing. A reproducible document conforming to the marked-up prints, drawings, and other data created after the construction process is complete showing the purported location of work elements and significant changes made during the construction process. Record drawings are based on unverified information provided by parties who are generally assumed reliable.

Recreation area. A classification of open space that includes land areas specifically providing for opportunities for passive and active recreational activities for residents of a development. Recreation areas are set aside and reserved for the common use of the residents of a development. Such areas may include, but are not limited to, tennis courts, swimming pools, athletic fields, picnic areas, golf courses, beaches, boat launching ramps, docks, woodlands, paths, trails, and similar facilities. Except as otherwise provided for herein, recreation areas shall not include balconies, private patios, or any buffer areas not set aside for the convenient use of all residents of a development. Water areas with specific recreational value may be classified as part of a recreation area only with the specific approval of the board of supervisors.

Recreational vehicle. A device, whether or not self-propelled, designed or used for transporting persons or property for or in connection with recreation or pleasure, as distinguished from mere transportation, except that it shall not include bicycles or other vehicles designed to be moved solely by human power. The term shall include, without limitation, motor homes, travel trailers, pickup campers, tent trailers, boats, boat trailers and any device designed or used primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place or eating place, temporarily.

Recycling center. A place where waste products are deposited on a relatively large scale to be collected and transported to a facility ultimately for the purpose of reducing them into raw materials and transforming them into new and sometimes different products.

Recycling collection point. An incidental use that serves as a drop-off point for temporary storage of recoverable resources, but where no processing of such items occurs. Such facilities are generally located in shopping center parking lots or in other public or quasi-public areas, such as churches and schools.

Recycling plant. A facility that is not a junkyard and in which recoverable resources, such as newspaper products; glass; metal cans; wood; rubber; and other products, are recycled, reprocessed, and treated to return such products to a condition in which they may again be use for production.

Regional Medical Center. A licensed and Commonwealth of Virginia accredited health care institution, whether public or private, with an organized medical and professional staff and with inpatient beds available around-the-clock whose primary function is to provide inpatient medical, nursing, emergency care and other health-related services to patients for both surgical and nonsurgical conditions and that usually provides some outpatient services. In terms of the emergency care, such centers serve and accept transport of patients from the emergency services departments of three or more jurisdictions/municipalities, including the host jurisdiction.

Repair service establishment. An establishment involved primarily in the repair and general service of common home appliances, household goods, or lawnmowers and gardening equipment; or, establishments involved primarily in interior decorating, reupholstering, or the making of draperies, slipcovers and other similar articles; or such other types of establishments which demonstrate similar impacts, but specifically not including furniture or cabinet-making establishments.

Resort. A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation. A resort is self-contained and provides personal services customarily furnished at hotels, including the serving of meals. Buildings and structures in a resort complement the scenic qualities of the location in which the resort is situated.

Restaurant, brew-pub. A sit-down restaurant that includes a microbrewery as an accessory use.

Restaurant, drive-in. An establishment that delivers prepared food and beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and beverages to customers who are not in motor vehicles, for consumption primarily off the premises.

Restaurant, fast food. Any establishment whose principal business is the high volume, high turnover sale of foods or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal methods of operation include selling food, frozen desserts, or beverages which are usually served in edible containers or in paper, plastic, or other disposable containers.

Restaurant, sit-down. Any establishment, other than a fast-food restaurant, where food and drinks are prepared, served and consumed primarily within the principal building.

Retail sales. The sale of goods, merchandise and commodities for use or consumption by the immediate purchaser.

Retention basin. A pond, pool, or basin used for the permanent storage of water runoff. Also referred to as a "wet pond."

Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

Right-of-way, road or street. The total width of land dedicated or reserved for public or restricted travel, including appurtenant facilities located therein, such as pavement, ditches, curbing, gutters, bikeways, sidewalks, shoulders, and sufficient land for the maintenance thereof.

Roadside stand. An accessory use, which may incorporate a structure, that offers for sale farm or garden produce which is grown on the premises.

Roadway geometrics. The alignment, curvature, horizontal and vertical grade, shoulder and drainage structure configuration, and other similar details relative to a roadway or segment thereof.

Sanitary sewer. Pipe conduits used to collect and carry away domestic, commercial or industrial sewage from the generating source to treatment plants. Storm, surface and ground waters are not intentionally admitted into sanitary sewers.

Satellite dish antenna. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit or receive radio or electromagnetic waves between terrestrially and orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

Scenic easement. An easement, the purpose of which is to limit development in order to preserve a view or scenic area.

School. A facility that provides a curriculum of elementary, middle, or secondary academic instruction, including kindergartens, elementary schools, middle schools, and high schools. Facilities offering General Equivalency Diploma (GED) and other adult and continuing education programs and curricula are also included within this definition.

Screening. The method by which a view of one site from an adjacent right-of-way or another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Seasonal occupancy. Occupancy of a dwelling unit, timeshare unit, or other accommodation for a limited period of time, typically not exceeding several weeks per calendar year. The occupancy may be in several intervals throughout the year, or in a single block of time, but in no event shall it extend for a period long enough to establish “legal residency” under applicable tax codes or to require registration of children for school attendance.

Seating capacity. The actual seating capacity of an area based upon the number of seats or one seat per eighteen inches (18") [46cm] of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the Uniform Building Code.

Secured medical facility. Any institution receiving inpatients and providing general or specialized care for mentally ill or other psychologically impaired patients in a facility which is secured so as to prevent patients from leaving the premises except under supervision or with special permission.

Sedimentation. A deposit of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

Senior Housing. As permitted by the terms of the Virginia Housing Law, Section 36-96.7 of the Code of Virginia (1950, as amended) and the federal Housing for Older Persons Act of 1995 (HOPA), senior housing or housing for older persons can include: i) that which is provided under any state or federal program that is designed and operated to assist elderly persons, as defined by such program; or (ii) a housing community or facility wherein at least 80% of the units are occupied by at least one person fifty-five (55) years of age or older and wherein none of the residents in the community or facility are under the age of nineteen (19). The requirements of "Housing for Older Persons" as set forth in the Virginia Fair Housing Law and HOPA shall control as to any allowable exemptions to the occupancy rules. The developer, owner, property owners association and/or manager of the housing community or facility shall establish, make available and adhere to policies and procedures which implement the occupancy criteria. Senior housing arrangements may be further distinguished as one or more of the following categories:

- *Independent Living Facility*: A building or series of buildings containing independent dwelling units intended to provide housing for older persons not requiring health or other services offered through a central management structure/source. The facility may include ownership or rental units and must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons, as defined above.

- *Congregate Care Facility*: A building or series of buildings containing residential living facilities intended as housing for older persons and which offers the residents of such facility the opportunity to receive their meals in a central dining facility, to receive housekeeping services and to participate in activities, health services, and other services offered through a central management structure/service.

- *Assisted Living Facility*: A building or series of buildings containing residential living facilities for older persons and which provides personal and health care services, 24-hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of Section 63.2-1800, et. seq. of the Code of Virginia (1950), as amended.

- *Continuing Care Retirement Community (CCRC)*. A senior housing development that is planned, designed and operated to provide a full range of accommodations for older persons, including independent living, congregate care and assisted living facilities, and which may also include a nursing home (skilled-care facility) component. Residents may move from one level to another level of housing accommodations as their needs change. CCRCs may include ownership and rental options but must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons, as defined above.

Septic system. An underground system with a septic tank and one or more drainlines, depending on volume and soil conditions, which is used for the decomposition of domestic wastes. Such systems may also be referred to as soil absorption systems.

Service station. Any premises where gasoline and other petroleum products are sold and light maintenance activities such as engine tuneups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

Setback. The required minimum horizontal distance from any street right-of-way line, lot line, or other designated line that establishes the area within which buildings or structures may be erected. For the purposes of this chapter, unless otherwise noted, the required front, side and rear yard dimensions are used to establish the applicable minimum setback dimensions. (See Figure I-2 in Appendix A)

Setback Line. A line or lines which establish the required minimum front, rear, and side setback distances as established in the zoning ordinance.

Shopping center. A group of architecturally unified and related retail establishments which are planned, developed, owned, and managed as a single operating unit. The establishments contained within the shopping center unit are related to each other and the market area served in terms of size, type, location, and market orientation. On-site parking is provided in direct relationship to the characteristics of the establishments contained within the center. For purposes of this chapter, the various types of shopping centers are defined as follows:

< *Neighborhood shopping center*. A small, neighborhood-oriented shopping center with a minimum of three (3) separate establishments and a gross leasable floor area of less than ten thousand (10,000) square feet. The establishments contained within the neighborhood center deal in goods and services required on a daily basis.

< *Community or regional shopping center*. A shopping center or mall of at least ten thousand (10,000) square feet of gross leasable floor area and containing a minimum of five (5) separate establishments which deal in a wide range of goods and services which are necessary on a community-wide basis. Community shopping centers typically contain one or more major anchor tenants and other establishments.

< *Specialty shopping center*. A shopping center or mall containing an interrelated mix of retail and accessory establishments having a distinct product or market orientation (for example, tourist-oriented center, mall, or complex; outlet mall or complex; or a center containing a group of home furnishings establishments) and linked together by an architectural, historical, or geographic theme. Specialty shopping centers contain at least five (5) separate establishments and a minimum of ten thousand (10,000) square feet of gross leasable floor area.

Shrub. A relatively low growing woody plant typified by having several permanent stems instead of a single trunk. For purposes of meeting the landscaping requirements of this chapter, shrubs shall be further defined as follows:

< *Deciduous shrub*. Any shrub which sheds its foliage during a particular season.

< *Evergreen shrub.* Any shrub which retains its green foliage throughout the entire year.

Sight triangle. A triangular-shaped portion of land established at street intersections and entrances onto streets in which nothing is permitted to be erected, placed, planted or allowed to grow in a manner that limits or obstructs the sight distance of motorists, bicyclists or pedestrians traversing or using the intersection or entrance.

Sign. Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

Site plan. A required submission, prepared and approved in accordance with the provisions of this chapter, which is prepared to scale and depicts and provides design details on the proposed improvements on a site such as the existing and proposed topography, vegetation, drainage, floodplains, marshes, waterways, open space, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices, complete dimensioning of the existing and proposed structures and improvements, the boundaries of the site, and any other information that reasonably may be required.

Skirting. A weather-resistant material used to enclose the space from the bottom of a manufactured home to grade.

Small wind energy system. A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics which has a rated capacity of not more than 100 kilowatts (kW) and is intended primarily to generate electricity or to reduce on-site consumption of utility power by means of wind power.

Solid waste disposal site or landfill. Areas which are utilized for the ultimate disposition of solid wastes as defined in chapter 19 of this Code, and also specifically including waste plant material, stumps or construction materials resulting from land-clearing and development activities.

Special use. A use that is not permitted in a particular zoning district except by a special use permit granted in accordance with the provisions established by this chapter.

Special use permit. A permit which may be authorized by the board for those uses identified as special uses by this chapter, in accordance with all applicable standards, criteria and procedures as established herein.

Stable, private. An accessory building in which horses are kept for private use and not for remuneration, hire, or sale.

Stable, commercial. A facility consisting of fenced enclosures and/or buildings in which horses are kept as a commercial venture, including boarding, hire, and sale.

Story. That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level.

Street. An established legal right-of-way or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the department of transportation or approved under the terms of the zoning ordinance as a private transportation system, or existing as an unimproved right-of-way serving multiple properties by easements owned in common or by other legally enforceable rights of pedestrian and vehicular access benefiting the adjoining properties and having a name officially assigned by the County. A street shall provide vehicular and pedestrian access to property for all purposes of travel, transportation and parking to which it is adopted, devoted, or dedicated. The term is synonymous with road, lane, drive, avenue, highway, roadway, thoroughfare, or any other term of like or common meaning. For the purposes of this chapter, there shall be two (2) types of streets:

< *Street, private*. Any street created under the terms of this chapter, which is not a component of the state primary or secondary system, and which is guaranteed to be maintained by a properly constituted association of property owners from the development of which such street is an approved part. In addition, the term “private street” shall include those unimproved rights-of-way serving multiple properties by easements owned in common or by other legally enforceable rights of pedestrian and vehicular access benefiting the adjoining properties and having a name officially assigned by the County (and sometimes referred to as “dirt streets).

< *Street, public*. A platted street, dedicated for the use of the general public for all purposes of travel, transportation or parking unless specifically noted otherwise.

Street Classification. Streets shall be functionally classified as follows:

< *Access street*. The lowest order of street, designed to serve low volumes of traffic at low operating speeds. As its primary function is to provide access to individual lots, access streets should carry only the volume of traffic generated on the street itself. Cul-de-sacs and other terminal streets are typical of this order of street.

< *Subcollector street*. The second order of street, designed to carry moderate volumes of traffic, at the same low operating speeds as access streets. Such streets collect traffic from access streets as well as provide access to individual lots. Long cul-de-sacs and other terminal streets may be within this order of streets where their traffic volumes exceed the standards for access streets.

< *Collector streets*. The highest order of street generally permitted within a residential subdivision, designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The class is further divided into ″major collector″ and ″minor collector″ based on traffic volumes.

< *Arterial street*. Includes streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relative large volumes of traffic at higher speeds. Direct residential lot access is prohibited while commercial or industrial lot access is controlled and limited to high trip volume generators. Like collector streets, the arterial class is further divided into ″major arterial″ and ″minor arterial″ based on traffic volumes.

< *Expressway and freeways.* The highest order of roadway, designed exclusively for unrestricted movement of traffic. Access is only with selected arterials by means of interchanges.

Structure. Any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner, including signs, but not including land forms.

Subdivide or subdivision. The division of a lot, tract, or parcel of land into two or more lots, parcels or other divisions of land for the purpose of transfer of ownership.

Surface mine. Any operation involving the breaking or disturbing of the surface soil or rock, where the primary purpose of the operation is to extract or remove sand, soil, gravel, or other natural materials from the earth and to transport the material, or any portion thereof, off the site of the surface mine operation. Specifically exempt from this definition are the following:

< Any excavation for roads, utilities, buildings, drainage structures, channels or ditches, or ponds, lakes or other water bodies or features, whether intended for drainage, recreational or aesthetic purposes, when such excavations are determined by the zoning administrator to be incidental to and in accordance with the approved development plans or site plans for a residential, commercial, industrial or other development activity, even though the excavated material, or a portion thereof, may be hauled off- site and sold. In no case shall any exempted pond or lake have a water depth exceeding

thirty-three feet (33').

< Any excavation for the purpose of conducting a bona fide agricultural operation, including but not limited to excavations to improve drainage, provide watering facilities for livestock or create a holding lagoon for animal waste, but only so long as such excavation is devoted solely to such use.

< Any trench, ditch or hole for utility lines, drainage pipe or other similar public works facilities or projects.

< Excavations for the installation of underground storage tanks, if to be backfilled to natural grade.

< Excavations for the purpose of enlarging or improving an existing structure.

< Any excavation for a pond or lake less than one (1) acre in size when, in the opinion of the zoning administrator, the sole purpose of such pond or lake is the recreational or aesthetic use and benefit of the occupants or intended occupants of the property and the objectives of this chapter would not be served by requiring a use permit. In no case shall any exempted pond or lake have a water depth exceeding thirty-three feet (33').

< Any excavation found by resolution of the board of supervisors to be operated, or proposed to be operated, directly or indirectly by or for the exclusive benefit of the Commonwealth of Virginia for the purpose of facilitating public roadway improvements, provided that such operation will not result in the creation of an excavated pit on the subject property, and provided further that the board is assured that such surface mining operation will be conducted in accordance with appropriate erosion and sediment control practices.

Notwithstanding the foregoing, in any of the above situations where the Zoning Administrator determines that the primary purpose or motivation for the excavation is to sell the excavated material as a commercial undertaking, the excavation shall be considered a surface mine and shall be subject to special use permit review.

Temporary family health care structure. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, and which has been primarily assembled at a location other than the site of installation.

Timeshare/Interval Ownership. A facility in which individual suites or living units are sold in increments of time (e.g., weeks or months) to individual owners for the purpose of transient or seasonal occupancy. Under this arrangement, the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis.

Tourist home. An establishment, either in a private dwelling or in a structure accessory and subordinate to a private dwelling, in which temporary accommodations are provided to overnight transient guests for a fee.

Tower. A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications.

Traffic, background. The number of trips existing or projected to exist on a roadway or roadway system without the land use under study, i.e., traffic not directly or indirectly caused or attracted by the analyzed land use.

Trailer. A vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle. For the purposes of this chapter, containerized cargo units designed to be placed upon and transported by a vehicle shall be construed to be trailers. The removal of wheels, tongues or hitches, or the placement on a foundation upon the ground shall not be deemed to change the character of a trailer.

Transient occupancy. Occupancy of a lodging unit or accommodation on a temporary basis for less than (ninety) 90 continuous days by a visitor whose permanent address for legal purposes is not the lodging unit occupied by the visitor.

Transitional buffer. A special landscaped yard area to be provided in accordance with the requirements of this chapter at the interface of certain zoning districts of differing intensities for the purpose of minimizing potential land use conflicts.

Transitional home. A dwelling unit, other than a group home, shared by more than four (4) unrelated persons, including resident staff, who do not qualify as a "family" as defined in this chapter, and who live together temporarily as a single housekeeping unit, and in which staff persons provide or facilitate care, education, counseling and participation in community activities for the resident clients. The following and similar types of occupancy shall be considered to be transitional housing:

- Temporary quarters for victims of physical or emotional abuse;
- Temporary or emergency quarters for children or adults needing room and board and support services that would lead to self-sufficiency and permanent shelter.

The term "transitional home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

Tree. A woody perennial plant generally with one main stem or trunk, but including multiple stemmed plants, which develops many branches, generally at some height above the ground. For the purpose of meeting the landscaping and preservation requirements of this chapter, the types of trees shall be defined as follows:

< *Deciduous tree*. Any shade, flowering or ornamental tree which sheds its foliage during a particular season.

< *Evergreen tree.* Any tree which retains its green foliage year round.

< *Heritage tree.* Any tree which has been designated by ordinance of the board as having notable historic or cultural significance to any site or which has been so designated in accordance with an ordinance adopted pursuant to section 15.2-2306, Code of Virginia.

< *Mature tree.* Any deciduous or evergreen tree with a minimum diameter (caliper) of fourteen inches (14") when measured four and one-half feet (4-1/2') above ground level.

< *Memorial tree.* Any tree which has been designated by ordinance of the board to be a special commemorating memorial.

< *Significant tree.* Any deciduous or coniferous tree with a minimum diameter (caliper) of twenty-two inches (22") when measured four and one-half feet (4-1/2') above ground level.

< *Specimen tree.* Any tree which has been designated by ordinance of the board to be notable by virtue of its outstanding size and quality for its particular species.

Tree cover. The area directly beneath the crown and within the dripline of a tree.

Tree crown. The aboveground parts of a tree consisting of the branches, stems, buds, fruits, and leaves. Also referred to as "tree canopy."

Trip. A single or one-way vehicle movement to or from a property, site, driveway or study area.

Trip assignment. The assignment of vehicle trip volumes (site-generated and background) to the roadway network around a development, and the assignment of site-generated volumes to individual and specific driveways and local streets within the development. The process entails analyzing all trips, both entering and exiting.

Trip ends. The total number of trips entering plus the total number of trips exiting a site over a designated period of time.

Trip generation. The number of trip ends caused, attracted, produced and otherwise generated by a specific land use, activity or development.

Truck, heavy. A truck having a gross rated carrying weight of more than one (1) ton [900kg].

Truck, light. A truck having a gross rated carrying weight of one (1) ton [900kg] or less.

Truck stop. Any facility offering fuel for sale for commercial vehicles, trucks and automobiles and constructed and designed to enhance maneuverability and fueling of tractor trailer vehicles by the contouring of curbs and aprons, and the placement of islands or other such design criteria. In addition a truck stop shall have the capacity to fuel three (3) or more tractor trailer vehicles at the same time and parking facilities for three or more vehicles. The facility may include provisions for one (1) or more of the following:

< sleeping accommodations for commercial vehicle or truck crews;

< sale of parts and accessories for commercial vehicles or trucks;

< a restaurant; or

< truck parking or storage area.

Trucking terminal. An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

Use. The purpose for which a structure or a tract of land is designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on or intended to be carried on in a structure or on a tract of land.
Usable satellite signal. A satellite signal which, when viewed on a conventional television, is at least equal in picture quality to that which can be received at the subject location from local commercial television stations by use of a conventional outdoor antenna or by way of locally available cable television service.

Variance. In the application of this chapter, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the chapter would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this chapter. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

Warehouse. A building used primarily for the indoor storage of goods and materials, usually without retail sales.

Waterman. An individual who is self-employed in the harvesting of seafood for sale.

Wetland.

- *Non-tidal. Those wetlands, other than tidal wetlands, that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time..*

- *Tidal. Vegetated and un-vegetated wetlands, as defined in Section 28.2-1300 of the Code of Virginia.*

Wholesale trade. The business of selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

Woodland. A tract of land dominated by trees but usually also containing woody shrubs, grasses, and other vegetation. For purposes of this chapter, the term woodland shall incorporate woods, woodland areas, wooded areas, forest, forested areas and any other terminology commonly recognized to have the same meaning.

Woodline. Line of demarcation separating areas of woodland from nonwoodland areas. For purposes of this chapter the woodline shall be defined as surrounding woodland including the leading edge of the dripline of the trees contained therein plus five feet (5').

Workboat. A watercraft used in the conduct of or in conjunction with a commercial operation such as aquaculture, seafood harvesting for sale, or other waterborne commercial or industrial activity whether or not designed and built or modified specifically for that commercial purpose.

Yard. Open space on the same lot with a building, a group of buildings, or a use, which is unoccupied and unobstructed from the ground upward, except as may be permitted by this chapter. (See Figure I-2 in Appendix A)

< *Front yard*. A yard extending across the full width of a lot and lying between the front lot line(s) and the principal building(s).

< *Side yard.* A yard between the side lot line and the principal building(s), and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front or rear lot lines.

< *Rear yard*. A yard extending across the full width of the lot and lying between the rear lot line and the principal building(s).

Yard, required. The open space, of the dimension specified by the district in which located, abutting the lot lines and extending inward therefrom, and thus defining the buildable portion of a lot (See setback definition).

Zoning administrator. The county administrator or designated agent.

Zoning map. The maps, together with all subsequent amendments thereto, which are adopted by reference as a part of this zoning ordinance and which delineate the zoning district boundaries.

Where questions or conflicts arise over the definition of other words used in this chapter that are not defined above, the zoning administrator shall make a determination as to the appropriate definition or meaning.

(Ord. No. O98-18, 10/7/98; Ord. No. O99-17, 12/1/99; Ord. No. 01-10(R-1), 6/19/01; Ord. No. 01-20(R), 10/16/01; Ord No. 03-2, 1/21/03; Ord. No. 03-25, 6/17/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 05-34(R), 12/20/05; Ord. No. 06-19(R), 7/18/06; Ord. No. 06-21, 9/19/06; Ord. No. 07-3(R), 5/15/07; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-1(R), 1/19/10; Ord. No. 10-2, 3/16/10; Ord. No. 10-24, 12/21/10; Ord. No. 11-15(R), 11/16/11; Ord. No. 12-15, 9/18/12; Ord. No. 14-20(R),10/21/14; Ord. No. 14-21, 11/18/14; Ord. No. 14-27, 12/16/14; Ord. No. 15-12, 9/15/15; Ord. No. 15-15(R), 1/19/16)

Sec. 24.1-105. Applicability of chapter.

Except as hereinafter provided, no land, building, structure or premises shall hereafter be used, and no building or structure, or part thereof, shall be erected, altered, located, or moved, except in conformance with the regulations established by this chapter for the district in which located. In addition to the requirements established herein, all development shall comply with all applicable requirements and permitting procedures of the various local, state, and federal review and regulatory agencies including, but not limited to, the York County Wetlands Board, Virginia Marine Resources Commission, Virginia Department of Environmental Quality, Virginia Department of Transportation, Health Department, and U.S. Army Corps of Engineers.

Sec. 24.1-106. Zoning districts and maps.

(a) The territory of the county shall be divided into the classes of zoning districts provided for in article III of this chapter. The zoning district locations and boundaries for the county shall be as shown on the map or maps entitled "Zoning Map of York County, Virginia dated June 28, 1995" and as amended from time to time in accordance with the procedures contained in this article, which, together with all explanatory matter thereon, are hereby adopted by reference and declared to be a part of this chapter.

(b) A reproducible copy of said maps, attested by the zoning administrator, shall be filed in the office of the zoning administrator or in such location as may be deemed appropriate by the zoning administrator.

Said maps, together with any duly adopted amendments thereto, shall be conclusive as to the current zoning classification of the territory of the county.

Said maps shall not be altered except in conformance with the procedures for amendment as established herein.

(c) In the event any land area is annexed or adjusted into the jurisdictional boundaries of York County, such land shall automatically be classified RC-Resource Conservation until such time as that classification may be changed through a specific rezoning action approved by the board of supervisors in accordance with all applicable procedures.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-107. Zoning certificates.

(a) Before the issuance of any building permit for the construction, alteration or change of use of any building, structure or premises, application shall be made to the zoning administrator for a zoning certificate. The certificate may be combined with such other forms as are required by the administrator and shall certify that the use, construction, or alteration proposed is permitted in accordance with the terms of this chapter and any conditions which may apply to the prop-erty as a result of a zoning or use permit action. No zoning certificate or building permit shall be issued for a property which does not qualify as a lot of record.

(b) Prior to the issuance of a certificate of occupancy for any construction, alteration or change of use, application shall be made to the zoning administrator for a certificate of zoning compliance which shall certify that any required plans have been fully and faithfully implemented on the site.

(c) The failure to obtain a zoning certificate or certificate of zoning compliance prior to establishing a use on property shall be a violation of this chapter.

Sec. 24.1-108. Filing fees.

(a) *Application fees.*

(1) An application fee shall be charged to offset the cost of reviewing plans, processing applications, making inspections, issuing permits, advertising public notices and other expenses incident to the administration of this chapter or to the filing or processing of any amendment to the zoning ordinance, special use permit or zoning appeals. Such fees shall also include charges for readvertising and re-mailing notices when necessitated by the amendment, postponement, or modification of an application. Filing fees shall be paid upon submission of an application and shall be as set forth in the following schedule:

TYPE OF APPLICATION	FEE
a. Amendment to the zoning ordinance, except planned development applications	$600, plus $10 for every acre in excess of 5, but not to exceed a maximum fee of $2,000.
b. Application for planned development approval	
(1) Phase I submission (overall concept)	$600, plus $10 for every acre in excess of 5, but not to exceed a maximum fee of $2,000.
(2) Phase II submission (detailed plan)	(Refer to site plan or subdivision plat fees)
c. Limited deviations from approved planned developments	$100
d. Special use permits and amendments thereto: 1. Applications for home occupations and accessory apartments	$400
2. All other types of Special Use Permit applications	$450, plus $10 for every acre over 5, but not to exceed a maximum fee of $1,000.
e. Minor enlargement or expansion of a conforming special use under provisions of section 24.1-115(d)(2)	$100
f. Special exception to height limitations as provided in section 24.1-231	$200
g. Special exception to allow expansion of a nonconforming use as provid- ed in section 24.1-801	$200
h. Other special exception	$200
i. Appeals/Variances/Modifications:	
1. Appeal or variance request to the board of zoning appeals	$250
2. Administrative modification request	$50
j. Amendment, modification or postponement of rezoning or use permit application requiring readvertisement and renotification by both the commission and board	$300
k. Amendment, modification, or postponement of rezoning, use permit or variance application requiring readvertisement and renotification by the commission, board, or board of zoning appeals	$200
l. Zoning Verification/Certification letters:	
1. Requests for verification of zoning classification and permissible uses	No Charge
2. Requests for zoning verification that also include confirmation of plan approvals, previous permits, violation notices, property conformance, and similar requests requiring file research and/or site inspections	$50

(2) No application shall be received or shall be deemed to have been filed until accompanied by the required filing fee. Furthermore, in the case of any application for rezoning, special use permit, special exception, or variance, submitted by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50%, verification shall be obtained from the York County Treasurer that any delinquent real estate taxes, nuisance charges, or any other charges that constitute a lien on the property have been paid. The applicant may provide a verification statement from the Treasurer as part of their application submission or, if not provided, staff will make the contact with the Treasurer's Office. If payments are current, the application will be accepted for processing. If not, the prospective applicant will be advised of the need to correct the delinquency.

(3) Application fees shall not be refundable in the case of appeals to the board of zoning appeals. In the case of withdrawal of applications for zoning amendments, use permits or planned development approval, exemptions or exceptions, refunds of application fees shall be according to the following schedule:

a. Written request received in sufficient time to cancel the publication of the first legal notice for the commission public hearing: one hundred percent (100%) of fee, minus a $50 administrative processing fee, is refundable.

b. Written request received after the first legal notice has been published but prior to the first meeting of the planning commission at which the request will be considered: fifty percent (50%) of the fee refundable.

c. Written request received within five working (5) days after the date of final action by the commission: twenty-five percent (25%) of fee refundable.

d. Written request received more than five (5) working days after the date of final action by the commission: No refund.

All requests for withdrawal must be in writing, signed by the applicant, and be submitted to the zoning administrator.

(4) The above described fees shall be waived for any application submitted by any board, commission, agency or department of the county.

(b) *Site plan review fees*.

(1) Filing fees shall be paid at the time a site plan is first presented for formal review and shall be in accordance with the following schedule:

a. Single-family attached or multi-family residential proposals shall pay a filing fee of one hundred fifty dollars ($150.00) plus fifteen dollars ($15.00) per dwelling unit (maximum fee two thousand five hundred dollars ($2,500.00)) plus forty-five cents ($0.45) per one thousand (1,000) square feet of total disturbed area.

b. Commercial, industrial, institutional and other types of uses and activities subject to site plan approval shall pay a filing fee of one hundred fifty dollars ($150.00) plus three dollars ($3.00) per one thousand (1,000) square feet of gross floor area of all structures (maximum fee two thousand five hundred dollars ($2,500.00)) plus forty-five cents ($0.45) per one thousand (1,000) square feet of total disturbed area.

(2) Amendments to approved site plans shall pay a filing fee of one hundred dollars ($100.00) unless the zoning administrator waives the fee because the need for the amendment arises from an error or oversight by a federal, state, or local agency.

(3) In addition to the review fees set forth above, the applicant/developer shall be responsible for payment of any Traffic Impact Analysis review fees as may be established by the Virginia Department of transportation pursuant to its implementation of the requirements of Section 15.2-2222.1 of the Code of Virginia.

(c) *Site inspection fee*. Prior to the issuance of zoning certificates or the commencement of development or activities authorized by an approved site plan, the developer of a project shall be responsible for payment of a non-refundable inspection fee based on the total amount of improved area on the site. For the purposes of this section, improved area shall be computed by adding the total area covered by structures, buildings, parking areas, driveways, sidewalks and other impervious surfaces on the site. The fee shall be fifty dollars ($50.00) plus one dollar ($1.00) per one thousand (1,000) square feet of improved area up to a maximum fee of one thousand five-hundred dollars ($1,500.00).

(d) *Variable site development fees.* In addition to the fees enumerated above, the developer shall be required to pay other fees as may be applicable to the proposed development. Depending upon the needs of the development and the desire of the developer that the county supply or arrange for certain signs, features or devices, these fees may include payments for construction, fabrication, installation and maintenance of control and warning signs and signals, streetlights, street identification signs, and other similar features, installations, or devices. The actual fees for such features, installations, devices, or maintenance thereof, shall be established by the board and published by the county from time to time and shall reflect, as closely as possible, actual costs including labor. The official fee schedule shall be available for review and copying from the zoning administrator during normal working hours.

(e) *County exempt from fees and surety.* The county shall be exempt from all fees and surety requirements established by this chapter.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-22(R), 10/20/09; Ord. No. 12-15, 9/18/12)

Sec. 24.1-109. Administration, enforcement, and penalties.

(a) The zoning administrator or designated agent is hereby authorized, on behalf of the board, to administer and enforce this chapter. Such authority shall include the ability to make official interpretations of this chapter and the zoning maps as described in section 24.1-110 and to order, in writing, the remedy of any condition found in violation of this chapter, and the ability to bring legal action to ensure compliance with its provisions, including injunction, abatement, or other appropriate action or proceeding. In specific cases, the zoning administrator may make findings of fact and, with the concurrence of the county attorney, conclusions of law regarding determinations of vested rights in a land use accruing under Code of Virginia section 15.2-2307 and article VIII of this chapter, or Code of Virginia section 15.2-2311 (C) relative to allowable modifications to previous orders, requirements, decisions or determinations of the zoning administrator or other county official.

The zoning administrator or his agent may present sworn testimony to a magistrate or court of competent jurisdiction and, if such sworn testimony establishes probable cause that a zoning ordinance violation within a dwelling unit has occurred, may request that the magistrate or court grant the zoning administrator or his agent an inspection warrant to enable the zoning administrator or his agent to enter the subject dwelling unit for the purpose of determining whether violations of the zoning ordinance exist. The zoning administrator or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant pursuant to this section.

Whenever the zoning administrator has reasonable cause to believe that any person has engaged in or is engaging in any violation of any provision of this chapter that limits occupancy in a residential dwelling unit, which is subject to a civil penalty as prescribed in subsection (c) below, and the zoning administrator, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain such information, he may request that the county attorney petition the judge of the general district court for a subpoena duces tecum against any such person refusing to produce such data or information. The judge of the court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued the subpoena to quash it.

(b) All departments, officials and employees of the county which are vested with duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are consistent with the provisions of this chapter. Any such permits, if issued in conflict with the provisions of this article, shall be null and void.

(c) *Penalties.* Violating, causing, or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner, lessee, employee or other similar position shall be unlawful and is subject to the following:

(1) Criminal sanctions. Upon conviction, any such violation shall be a misdemeanor punishable by a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00). If the violation is uncorrected at the time of the conviction, the court may order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00), and any such failure during any succeeding ten (10) day period shall constitute a separate misdemeanor offense for each ten (10) day period punishable by a fine of not less than one hundred ($100.00) nor more than one thousand five hundred dollars ($1,500.00).

Any conviction resulting from a violation of the provisions regulating the number of unrelated persons living as a “family” in a residential dwelling shall be punishable by a fine of up to

$2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to $5,000, and any subsequent failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to $7,500. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with Chapter 13 or Chapter 13.2 of Title 55, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated individuals in a residential dwelling unit shall not be punishable by a jail term. (*reference Section 15.2-2286.A.5., COV*)

(2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings for relief.

(3) *Civil fines:*

a. Any person summoned or issued a ticket for a violation of this chapter listed in subsection (b) below may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established in this section for the offense charged, in lieu of criminal sanctions. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.

b. A civil penalty is hereby established for a violation of any offense listed below in the amount of two hundred dollars ($200.00) for any one (1) violation for the initial summons and five hundred ($500.00) for each additional summons:

1. Constructing, placing, erecting, installing, maintaining, operating, or establishing an accessory structure or use in violation of section 24.1-270 et seq.

2. Constructing, placing, erecting or displaying a sign in violation of section 24.1-700 et seq.

3. Erecting, altering, or changing use or occupancy of any building, structure, or premises without first obtaining a zoning certificate or certificate of zoning compliance in violation of section 24.1-107.

4. Failure to perpetuate and maintain all landscaping, screening, and fencing materials required by this chapter in violation of section 24.1-242.

5. Operating, conducting or maintaining a home occupation in violation of Article II – Division 8, Home Occupations.

6. Failure to observe the requirements for keeping sight triangles, as described in section 24.1-220(b), free of obstructions.

c. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten (10) day period and in no event shall a series of such violations result in civil penalties which exceed a total of more than five thousand dollars ($5,000.00). When such civil penalties total $5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

d. The above provisions notwithstanding, civil penalties shall not accrue or be assessed during the pendency of the 30-day appeal period allowable pursuant to the terms of Section 24.1-903.b.

e. No provisions herein shall be construed to allow the imposition of civil penalties for:

1. enforcement of the Uniform Statewide Building Code;

2. activities related to land development;

3. violations of the erosion and sediment control ordinance;

4. violations relating to the posting of signs on public property or public rights-of-way; or

5. violations resulting in injury to any person or persons.

(Ord. No. O97-18, 6/4/97)(Ord. No. O98-18, 10/7/98)(Ord. No. 03-31, 8/5/03; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-15, 8/18/09; Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-110. Interpretations.

(a) In determination of the location of the district boundaries shown on the zoning maps, the following rules shall apply:

(1) Boundaries indicated as following streets, highways, alleys, railroads, or waterways shall be construed to follow centerlines of such features unless specifically noted otherwise. In instances where the zoning district line abuts tidal waters, the district line shall extend to the mean low water mark unless such tidal waters are otherwise placed in a zoning district.

(2) Any zoning district boundary shown extended to or into any body of water bounding the county shall be deemed to extend straight to the county boundary.

(3) Where a zoning district boundary line is indicated as dividing a parcel of land, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by use of the scale appearing thereon, and shall be measured to the nearest foot.

(4) Where physical features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered above, the board of zoning appeals, in accordance with the procedures established by section 15.2-2309, Code of Virginia and this chapter shall interpret such boundaries.

(b) Interpretations by the zoning administrator with respect to situations not specifically addressed by the provisions of this chapter shall be issued in writing and shall become a part of a permanent file to be maintained and available for review in the office of the zoning administrator. Such interpretations shall describe the rationale for the decision and shall include citations of the specific policies of the board of supervisors, as expressed in the adopted comprehensive plan, which support the interpretation.

(c) Any decision, order, requirement or determination by the zoning administrator shall be rendered in writing and shall include the following statement:

You have thirty (30) days in which to appeal this decision to the Board of Zoning Appeals, in accordance with section 15.2-2311, Code of Virginia, or this decision shall be final and unappealable. The filing fee for an appeal application is _____ (stating the amount of the fee). Information regarding the appeal application process can be obtained by contacting the Secretary of the Board of Zoning Appeals [(757)890-3532].

(d) Charts and diagrams included in this chapter are intended to supplement and illustrate the chapter provisions. In the event of conflict between such charts or diagrams and the text of this chapter, the text shall control.

(e) When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or the Board of Zoning Appeals is not the owner or the agent of the real property subject to such written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer, or the zoning administrator may require the applicant to give the notice and to provide satisfactory evidence of having done so. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment records shall be deemed to satisfy the notice requirement.

(Ord. No. 10-24, 12/21/10; Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-111. Conflicting requirements.

(a) Whenever the regulations made under authority of this chapter require a greater width or size of yards, courts, or other open spaces, require a lower height of building or fewer number of stories, require a greater percentage of a lot to be left unoccupied, or impose other higher or more restrictive

standards than are required in any other statute or local ordinance or regulations, the provisions of the regulations made under authority of this chapter shall govern.

(b) Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces, require a lower height of building or fewer number of stories, require a greater percentage of a lot to be left unoccupied, or impose other higher or more restrictive standards than are required by the regulations made under authority of this chapter, the provisions of such statute or local ordinance or regulation shall govern unless the zoning administrator shall determine, in writing, that such application was unintended or would be contrary to the goals and objectives of the county as found in the comprehensive plan.

(c) Whenever two or more of any of the provisions established by this chapter are found to be in conflict, the zoning administrator shall determine which provision shall govern. The SI (metric) unit "equivalents" provided herein shall not be deemed to be more restrictive for the purposes of this section.

Sec. 24.1-112. Effect of private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility for enforcing such private easement, covenant, agreement or restriction is not implied herein to rest with any public official or body. When this chapter imposes a more restrictive standard than is required by the private contract, the provisions of this chapter shall control.

Sec. 24.1-113. Amendments.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the board may by ordinance, amend, supplement, or change the regulations, district boundaries, or classifications of property established by this chapter.

(a) *Initiation.*

(1) Amendments to the zoning map including district boundaries or classifications may be initiated by:

a. The board by resolution; or

b. The commission; or

c. A petition properly signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent.

(2) Amendments to the zoning ordinance text may be initiated by:

a. The board by resolution; or

b. The commission.

(3) Whenever the board or commission shall initiate an amendment, either to the map or text, the public purposes for such an amendment shall be clearly stated.

(b) *Contents of petitions*. Any petition for amending the zoning map shall include the following:

(1) A properly completed and signed application form.

(2) A narrative description of the property which shall include the parcel identification number and, if only a portion of the parcel is to be reclassified, a description, by courses and distances, of the land to be reclassified.

(3) A plat of the property indicating the location of the tract and the requested change. Such plat shall be accurate and suitable to identify the property in relation to street intersections or other physical features.

(4) A statement of the reasons for seeking such amendment.

(5) Such supplemental material (i.e., traffic studies, environmental assessments, etc.) as may be necessitated by the proposal itself or the district in which located or proposed to be located.

(c) *Procedures for amendment*.

(1) Applications for amendment of the zoning ordinance shall be submitted to the zoning administrator and upon completion of all filing requirements, including payment of required fees, shall be deemed received by the board and referred to the commission for its review and recommendation as provided by section 15.2-2285, Code of Virginia.

(2) The commission, after public notice in accordance with section 15.2-2204, Code of Virginia shall hold at least one public hearing on such petition and as a result thereof shall transmit a recommendation to the board. Failure of the commission to report within one hundred (100) days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the board of supervisors, shall be deemed approval, unless such proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of such time period. In the event of such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

(3) In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by section 15.2-2204, Code of Virginia. Such ordinances shall be enacted in the same manner as all other ordinances.

(4) Upon receipt of the recommendation of the commission, the board, after public notice in accordance with section 15.2-2204, Code of Virginia shall hold at least one public hearing on such petition for amendment, and as a result thereof shall make such changes to the chapter as it deems appropriate, provided further that the board shall act upon and make a decision upon each petition within one (1) year of the date such petition was filed.

(d) *Matters to be considered in reviewing proposed amendments*. Proposed amendments shall be drawn and applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for airports, affordable housing, schools, parks, playgrounds, recreation areas, and other public services; for the conservation of natural resources; for preservation of flood plains; for the preservation of agricultural and forestal land; and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the county.

(e) *Procedures for recording zoning map amendments*. When the amendment involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat of such land showing the new zoning classifications and indicating their boundaries. The zoning administrator shall refer to said attested ordinance as a record of the current zoning status until such time as the zoning map can be changed accordingly.

(f) *Reconsideration.* When the board has officially acted on a petition for amendment, no other petition for substantially the same change shall again be considered until after one (1) year from the date of official action.

(Ord. No. 01-20(R), 10/16/01)

Sec. 24.1-114. Conditional zoning.

(a) *Statement of intent*. It is the general policy of the county, in accordance with the laws of the Commonwealth of Virginia, specifically section 15.2-2283, Code of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize the effects of change. It is the purpose of this section to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby an amendment to the zoning map may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The provisions of this section shall not be used for the purpose of discrimination in housing.

(b) *Proffer of conditions.*

(1) The owner or owners of property for which an application is being made for an amendment to the zoning map may, as part of the application, voluntarily proffer, in writing, reasonable conditions which shall be in addition to the regulations of the zoning district classification sought by the application.

(2) Conditions so proffered may be made prior to the public hearing before the commission. Alternatively, or in addition, in consideration of comments expressed during the commission deliberations on an application, the property owner(s) may, prior to the final public hearing conducted by the board, choose to proffer original conditions or revised conditions. In addition, the board may accept amended proffers during the course of its public hearing on the application provided that the amended proffers do not materially affect the overall proposal.

(3) The board as part of an amendment to the zoning map, may accept such reasonable conditions in addition to the regulations provided by this chapter for the zoning district to which the amendment is requested provided that:

a. the rezoning itself gives rise to the need for the conditions;

b. such conditions have a reasonable relation to the rezoning; and

c. all such conditions are in conformity with the adopted comprehensive plan; and

d. if proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered. All cash proffers shall be accepted and held in accordance with the terms of sections 15.2-2303.2 and 2303.3 of the Code of Virginia.

Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (sec. 55-508 et seq) of Title 55, Code of Virginia, which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in section 15.2-2241, Code of Virginia; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.

(c) *Submittal requirements*. In addition to the information required elsewhere in this chapter for submission of petitions for reclassification of property, any applicant proposing reclassification under the provisions of this section shall submit a signed statement as follows:

Conditions voluntarily proffered for the reclassification of property identified as _____.

I hereby voluntarily proffer that the development of the property owned by me proposed for reclassification under this application shall be in strict accordance with the conditions set forth below.

(d) *Effect of conditions.*

(1) The provisions of this section shall be considered separate from, supplemental to and in addition to the provisions contained elsewhere in this chapter or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code.

(2) Once proffered and accepted by the board as part of an amendment to the zoning map, such conditions shall continue in full force and effect until amended as provided herein.

(3) Conditions once proffered and accepted by the board shall immediately become effective with approval of the application to amend the zoning map. Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in conformance with all proffered conditions and no development shall be approved by any county official in the absence of said conformance.

(4) In the event proffered conditions include the dedication of real property or the payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which said property is dedicated or cash is tendered are included in the capital improvement program, except that items which are not normally included in such capital improvement program may be accepted at any time. In the event a proffer involves a pledge of

a cash payment for residential construction on a per-dwelling unit or per-home basis, the cash payment pursuant to such proffer shall be collected or accepted only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property.

(e) *Procedures for recording of conditions*.

(1) A certified copy of all ordinances accepting proffered conditions, together with a duly signed copy of the proffer statement, shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the clerk of the circuit court.

(2) The zoning map shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The zoning administrator shall keep in his or her office and make available for public inspection a conditional zoning Index which shall provide ready access to each ordinance creating such conditions.

(f) *Enforcement and guarantees of conditions*. The zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce such conditions as may be attached to an amendment of the zoning map, including, but not limited to:

(1) The ordering in writing of the remedy of any non-compliance with such conditions;

(2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

(3) Requiring a guarantee, satisfactory to the board, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy, building or other such permit, as may be appropriate and to seek such remedy as provided under the terms of this chapter.

(g) *Petition for review of decision.* Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator pursuant to the provisions of section 24.1-114(f) herein may petition the board for the review of such decision. Any such appeal shall occur within thirty (30) days of the action complained of and shall be instituted by filing with the zoning administrator a notice of appeal fully specifying the grounds therefor.

The zoning administrator shall forthwith transmit to the board all of the papers constituting the record upon which the decision appealed from was taken, and the board shall proceed to hear the appeal at its next regularly scheduled meeting.

An appeal shall stay all proceedings and furtherance of the action appealed from unless the zoning administrator certifies to the governing body after the notice of appeal has been filed with the zoning administrator that by reason of the fact stated in the certificate a stay will cause imminent peril to life or property. In such case the proceeding shall not be stayed otherwise than by a restraining order which may be granted by the governing body or by a court of record on application or notice to the zoning administrator and on due cause shown.

A decision by the board of supervisors on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

An aggrieved party may petition the circuit court for review of the decision of the governing body on an appeal taken pursuant to this section. The provisions of Section 15.2-2285.F. of the Code of Virginia shall apply to such petitions to the Circuit Court, mutatis mutandis.

(h) *Amendments and variations of conditions.* Amendment or variation of conditions created pursuant to this section may be made in accordance with the procedures set forth in section 15.2-2302 , Code of Virginia, and including notice and public hearing, if applicable.

(i) Notwithstanding any other provision of this chapter, for any rezoning action approved, valid and outstanding as of January 1, 2011, and related to new residential or commercial development, any proffered condition that requires the landowner or developer to incur significant expenses upon an event

related to a stage or level of development shall be extended until July 1, 2017, or longer as agreed to by the county. However, the extensions in this subsection shall not apply (i) to land or right-of-way dedications, (ii) when completion of the event related to the stage or level of development has occurred, or (iii) to events required to occur on a specified date certain or within a specified time period.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 05-34(R), 12/20/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-15, 8/19/09; Ord. No. 10-24, 12/21/10; Ord. No. 11-15(R), 11/16/11; Ord. No. 12-15, 9/18/12)

Sec. 24.1-115. Special use permits.

Certain uses, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right, but may, under the right set of circumstances and conditions be acceptable in certain specific locations. These uses are permitted only through the issuance of a special use permit by the board after ensuring that the use can be appropriately accommodated on the specific property, will be in conformance with the comprehensive plan, can be constructed and operated in a manner which is compatible with the surrounding land uses and overall character of the community, and that the public interest and general welfare of the citizens of the county will be protected. No inherent right exists to receive a special use permit; such permits are a special privilege granted by the board under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements may not be sufficient and additional measures, occasionally substantial, may be necessary to mitigate the impact of the proposed development. In other situations, no set of conditions would be sufficient to approve an application, even though the same request in another location would be approved.

(a) *Application.*

(1) Applications for the establishment of special uses shall be submitted on the official application form and shall contain the following:

a. A narrative description of the property which shall include the assessor's parcel number or in the case of a recorded subdivision, the lot number and block description.

b. A narrative description of the proposed uses of the property.

c. A sketch plan of the site prepared at scale to show all existing and proposed physical improvements and such other information as is necessary to clearly indicate to the commission and the board that adequate provisions will be made for compliance with all standards for that particular use and the extent of property to be so used on a given parcel or parcels.

d. Property owner's signature or written consent.

e. A traffic statement specifying the expected trip generation, both 24-hour and peak hour, and, if either exceed the trip generation limits established in article II, division 5, a traffic impact analysis prepared in accordance with that section.

f. Such other attachments as may be necessary by virtue of being in an overlay district or the YVA district.

(2) An application shall not be deemed to have been filed until it is complete including all signatures, attachments, and the requisite filing fee.

(b) *Procedure for issuing special use permits.*

(1) Application for the establishment of special uses shall be submitted to the zoning administrator and, upon determination that such application contains all necessary elements, shall be deemed received by the board and referred to the commission for its review and recommendation.

(2) The commission shall, within one hundred (100) days after the first meeting of the commission after such referral, report to the board its recommendation as to the approval or disapproval of such application and any recommendation for establishment of conditions, in addition to those set forth in this article, deemed necessary to protect the public interest and welfare. Failure of the commission to report within one hundred (100) days shall be deemed a recommendation of approval.

(3) In considering applications for special use permits, the commission shall use the following criteria in its review and report to the board:

a. Compatibility of the proposed use and location with the policies established in the comprehensive plan.

b. Compatibility of the proposed use with the character of adjacent properties and the surrounding neighborhoods and with existing and planned development.

c. Availability of, or ability to provide, adequate utilities, drainage, parking and loading space, lighting, screening, landscaping and open space.

d. Provision of safe and convenient pedestrian, bicycle, and traffic movement.

e. Compatibility of the proposed use with the intent and function of the particular zoning district in which located.

f. Compliance with applicable performance standards and requirements as set forth in article IV.

g. Ability to mitigate fully the negative external impacts of the proposal which are in excess of that which might otherwise be developed on the site.

(4) Upon receipt of the recommendation of the commission, the board, after public notice in accordance with section 15.2-2204, Code of Virginia, shall hold at least one public hearing on such application, and as a result thereof shall either approve or deny the request.

(5) In approving any special use permit, the board may by resolution:

a. Impose such reasonable standards, conditions or requirements, in addition to any specified in this chapter, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to, special setbacks, yard requirements, increased screening or landscaping requirements, area requirements, and standards pertaining to traffic, circulation, noise, lighting, hours of operation and similar characteristics.

b. Require that a performance guarantee, acceptable in form, content and amount to the county, be posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified.

c. Specify time limits or expiration dates for any such special use permits, including provisions for periodic review and renewal.

(6) A certified copy of all resolutions authorizing a special use permit pursuant to this section shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the clerk of the circuit court.

(7) When the board has acted on an application for a special use permit and has denied it, no other application for substantially the same request shall be considered until one (1) year has elapsed from the date of the board's action.

(c) *Procedures applicable to permits.*

(1) Unless otherwise specified by the conditions of the permit or as set forth in subsection (c) (6) below, failure to establish the special use authorized by the permit within two (2) years from the date of approval by the board shall cause the permit to terminate automatically. In the case of uses involving the construction of new buildings or other structures, the use shall be deemed "established" if all necessary foundation work has been completed within the two-year period and construction work is continuously and diligently pursued thereafter under a valid building permit. In the case of uses involving occupancy of land or an existing building, the use shall be deemed "established" only if the land or buildings have been occupied and the proposed activity conducted within the two-year period.

(2) Unless otherwise specified in the conditions of a permit or as set forth in subsection (c) (6) below, the initial term of each special use permit shall be for one (1) year from the date of approval. Upon compliance with those conditions and restrictions imposed by the board and all relevant county ordinances, the special use permit shall, without application, be renewed automatically for additional successive one (1) year terms. However, a special use permit shall not be so renewed and shall expire at the end of the term or current renewal thereof if notice of noncompliance with any material condition or restriction is mailed by certified mail to the permittee, at the address shown on the application for the permit or any new address

of which the zoning administrator subsequently receives written notice, more than thirty (30) days before the end of the term or the renewal thereof then in effect and such noncompliance is not corrected within thirty (30) days to the satisfaction of the zoning administrator.

The provisions of this section are cumulative with the power of injunction and other remedies afforded by law to the county and, further, shall not be so interpreted as to vest in any applicant any rights inconsistent or in conflict with the power of the county to rezone the subject property or to exercise any other power provided by law.

(3) Once a special use permit is granted, such use may be enlarged, extended, increased in intensity or relocated only in accordance with the provisions of this section unless the board, in approving the initial permit, has specifically established alternative procedures for consideration of future expansion or enlargement. If, however, the specially permitted use is no longer a use permitted in the zoning district in which located, the provisions of article VIII relative to expansion of nonconforming uses shall control any proposed enlargement of the use. If the use that is the subject of the special use permit becomes a use permitted as a matter-of-right through subsequent amendment of this chapter, the special use permit conditions shall be voided but only to the extent they are more restrictive than those conditions applicable generally to such by-right use.

(4) Uses in a district for which a special use permit is required, which were legally existing without such a permit at the time of adoption of this chapter or an amendment thereto which required such a special use permit, shall not be deemed nonconforming uses, but shall, without further action, be deemed conforming special uses so long as they continue in existence. Such special uses shall be subject to the provisions of subsection (d) below with respect to any enlargement, extension, increase in intensity or relocation.

(5) Where any special use is discontinued for any reason for a continuous period of two (2) years or more, the special use permit shall automatically terminate without notice, except as provided in subsection (c) (6) below. A use shall be deemed to have been "discontinued" when the use shall have ceased for any reason, regardless of the intent of the owner or occupier of the property to reinstitute the use at some later date. The approval of a new special use permit shall be required prior to any subsequent reinstatement of the use.

(6) As provided in Code of Virginia sections 15.2-2209.1:

a. In the case of any special use permit outstanding as of January 1, 2011, and related to new residential or commercial development, any deadline in such special use permit or in this chapter that requires the commencement of a project or that requires the landowner or developer to incur significant expenses related to improvements for a project within a certain time, shall be extended to July 1, 2017. This provision shall not apply to any requirement that a use authorized by a special use permit or other zoning action shall be terminated by a certain date as within a set number of years. This extension of time shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

(d) *Amendment of special use permits.* An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid special use. Amendments shall be processed as follows:

(1) Non-material and insignificant modifications, shifts in location, slight changes in size, shape, intensity, or configuration may be authorized by the zoning administrator provided there is nothing in the currently valid permit to preclude such action, the changes comply fully with other provisions of the permit and the Code, and that there will be a five percent (5%) or less increase in either lot coverage or floor area over what was originally approved.

(2) Minor enlargements, expansions, increases in intensity, relocations, or modifications of any conditions of an approved and currently valid special use may, without public hearing, be authorized, including the establishment or reestablishment of reasonable conditions, by resolution of the board provided that such minor changes comply with the following criteria:

a. There will be a cumulative total of less than a twenty-five percent (25%) increase in either total lot coverage or floor area;

b. There will be no detrimental impact on any adjacent property caused by significant change in the appearance or the use of the property or any other contributing factor;

c. Nothing in the currently valid special use permit precludes or otherwise limits such expansion or enlargement;

d. The proposal conforms to the provisions of this article and is in keeping with the spirit and intent of the adopted comprehensive plan.

(3) Any proposed amendment other than those provided for in paragraphs (1) and (2) above shall be considered a major amendment of a previously approved and currently valid special use and shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original permit.

(4) For an existing and currently valid special use permit which is no longer allowed as a special use in the zoning district in which located, the board, upon receipt of an application, may review and approve an amendment to said permit, provided such amendment does not allow the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any limitation specified in the existing use permit or established in article VIII - Nonconformities.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 08-17(R), 3/17/09; Ord. No. 12-15, 9/18/12)

Sec. 24.1-116. Posting of notices of public hearing.

The zoning administrator shall cause notice to be posted on properties for applications made under this chapter. The filing of an application shall be deemed to grant approval to the county for posting of notice on the subject property.

(a) The notice shall be posted at least seven (7) days prior to public hearings on the subject property along every street frontage, or, if there is no abutting street, then in an appropriate location to ensure visibility from public roads or adjacent occupied property.

(b) Posting of notices shall be reasonably attempted, but shall not be required when:

(1) the hearing involves an application for an amendment to the zoning map involving twenty-six (26) or more parcels of land initiated by action of the commission or board; or

(2) the hearing involves an application for a special use permit or zoning appeal involving twenty-six (26) or more parcels of land.

(c) Posting of notices shall not be required when:

(1) the hearing involves an application for a comprehensive amendment to the zoning map initiated by action of the commission or board; or

(2) the zoning administrator determines that posting notice is impractical and will not facilitate the public dissemination of information.

(d) The inadvertent failure to post notices, or the inadvertent placement of notices on other than the subject property shall not be deemed to invalidate any action of the commission, board of zoning appeals or board concerning the subject application.

Sec. 24.1-117. Certain utilities and services exempt.

(a) Except as specifically noted below, certain utilities and services shall be exempt from the other regulations of this chapter. Specifically, the following facilities and equipment shall be so exempted:

(1) Traffic signals, fire hydrants, alarm or emergency devices, telephone booths and pedestals, public transit shelters, mailboxes, and similar devices and structures;

(2) Wires, poles, pipes, meters and similar facilities which provide service connections between primary distribution lines or mains and individual residential, commercial or industrial customers, or which are an integral and accessory part of a subdivision or development;

(3) Sewage pump and lift stations, water storage and pumping facilities, communication switching and relay facilities, and similar utilities when approved by the zoning administrator as a necessary and integral component of a public utility system. Such facilities shall be surrounded by a Type 25 Buffer, as defined in this chapter.

(4) Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

(b) Any utility substation, treatment plant, generating plant, or similar facility which is not within the normal scope of distribution facilities referred to above shall be authorized only by special use permit.

(Ord No. O98-18, 10/7/98; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-118. Conservation easements.

Conservation easements required by this chapter shall be subject to the following:

(a) Conservation easements may be granted to the county or to any other entity having a charter or bylaws appropriate to retaining land or water areas for conservation purposes and which is deemed acceptable by the zoning administrator in consultation with the county attorney.

(b) Conservation easements granted to the county shall not be construed to imply that the county holds any maintenance responsibility over the property covered by the easement.

(c) In lieu of establishing a conservation easement, the zoning administrator, with the concurrence of the county attorney, may authorize other arrangements which would effect the same purpose as a conservation easement for a comparable period of time.

(d) The county attorney shall approve the form of any easement granted to the county.

(e) All easements shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the clerk of the circuit court.

Secs. 24.1-119 – 24.1-199. Reserved.

ARTICLE II. GENERAL REGULATIONS

DIVISION 1. GENERAL LOT REGULATIONS

Sec. 24.1-200. Separate lots required.

(a) Except as may be specifically authorized by other provisions of this chapter, only one (1) principal dwelling unit shall be permitted on any individual lot located in the RC, RR, R33, R20, R13, and R7 districts.

(b) Except as may be specifically authorized by other provisions of this chapter, a principal residential use shall not occupy the same lot with any other principal use.

(c) No building permit shall be issued for a parcel which is not a lot of record.
(Ord. No. 14-12, 6/17/14)

Sec. 24.1-200.1. Verification of Access Rights

Prior to issuance of any building permit or other permit for use of a parcel of land subject to the terms of this chapter, the property owner or applicant shall be required to verify that there is a legal right of access to the parcel from a public right-of-way, either by virtue of direct frontage/access or by virtue of an access easement or other legally enforceable rights of access. The same type of verification shall be required with respect to access to public water and sewer service, if the property is required to be served by such utilities.
(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-201. Subdivision and consolidation of lots.

(a) Each lot created subsequent to the adoption or amendment of this chapter shall comply with all area and dimensional regulations, as amended, for the district in which located and with all applicable provisions of the subdivision ordinance. Lots shall not be created in such a manner as to cause any existing structures to be in conflict with setback and yard requirements of the district in which located.

(b) Where a development is proposed to encompass and be situated on multiple existing lots under the same ownership, the lot lines separating said lots shall be vacated through the preparation and recordation of a survey plat, prepared in accordance with all applicable procedures and requirements. The recordation of such plat shall be a prerequisite for the issuance of land disturbing permits and/or building permits for the proposed development project. In the event the development proposed can stand alone on each of the lots without a principal use/accessory use dependency and in compliance with all applicable setback and other dimensional requirements, then vacation of the lot lines shall not be required.

(c) Other provisions of this chapter relating to side and rear setbacks notwithstanding, an individual lot encompassing one or more of the attached tenant spaces in a retail or office center may be created provided that:

(1) The lot meets the minimum area and width requirements for the district in which located;

(2) The remainder of the parent tract meets the minimum area and width requirements for the district in which located;

(3) The proposed lot lines shall be coterminous with a common wall separating individual tenant spaces, or with a landscape island running parallel to the lot line(s), or with the centerline of a driveway, parking lot drive-aisle, or shall be otherwise located logically and appropriately in relation to entrance drives, the parking lot layout and other similar features of the property, as determined by the zoning administrator and subdivision agent;

(4) Appropriate cross-easements shall be established to allow the development to function in an integrated and coordinated manner in terms of parking, circulation, management,

maintenance and operations;

(5) Binding agreements or restrictions shall be established requiring the structures on the parcels created in this manner to remain in the approved configuration relative to property lines and to observe the same configuration if ever destroyed and rebuilt; and

(6) There shall be no additional freestanding signage allowed for the retail or office center as a whole as a result of such parcel configurations. For purposes of signage, the retail or office center shall continue to be deemed to constitute a single parcel.

(7) There shall be no additional driveway connections to the adjoining public road(s) allowed for the retail or office center as a whole as a result of such parcel configurations. For purposes of driveway connections, the retail or office center shall continue to be deemed to constitute a single parcel.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-202. Lot frontage required.

Unless specifically exempted by this section or other terms of this chapter or the subdivision ordinance, each lot or parcel hereafter created shall have frontage on a public street, which frontage shall not be less than the minimum lot width required for the district in which located.

(a) Where lot lines are established radially from a curved street so as to increase the width of the lot with the distance from the street line, the frontage of such lots may be reduced to not less than seventy percent (70%) of the minimum required lot width or fifty feet (50'), whichever is greater. In such cases, frontage shall be measured along the chord of such curve and lot width shall be measured at the minimum building setback line prescribed for the district in which located. (See Figure II-1 in Appendix A)

(b) In the case of lots fronting on a cul-de-sac, the frontage of such lots may be reduced to not less than fifty percent (50%) of the minimum required lot width or fifty feet (50') whichever is greater. In such cases, frontage shall be measured along the chord of such curve and lot width shall be measured at the minimum building setback line prescribed for the district in which located. (See Figure II-1 in Appendix A)

(c) Other provisions of this chapter notwithstanding, flag lots may be permitted but only in accordance with the following requirements and all applicable requirements of the subdivision ordinance. Nothing in this section shall be construed to recognize flag lots as a generally available design technique to be used as a matter of right by any person subdividing land.

(1) Flag lots may be utilized to prevent unnecessary or undesirable accesses to collector or arterial roads; or

(2) Flag lots may be utilized to recognize unique physical or environmental characteristics of a parent tract which preclude efficient and logical subdivision in accordance with normally applicable frontage requirements.

(3) The following limitations shall apply to flag lots:

a. One lot, or a maximum of five percent (5%) of the total lots in a subdivision, whichever is greater, may be flag lots. This limitation shall be cumulative for subdivisions consisting of more than one (1) section. The zoning administrator may waive this limitation upon finding that authorizing the use of additional flag lots would preserve environmentally sensitive land or have a direct positive impact on designated environmental management or Chesapeake Bay Preservation areas.

b. Flag lots shall not be permitted whenever the effect would be to increase the number of lots with direct access to a major collector or arterial street.

c. That portion of a flag lot comprising the "staff" shall not be counted for the purpose of determining minimum lot area compliance.

d. The minimum width of the "staff" portion of a flag lot shall be thirty feet (30') and the edge of any driveway constructed within the “staff” shall be at least five feet (5')

from the side property lines of the "staff." Where two flag lots abut one another, the "staff" portions of the lots shall be coterminous to the extent possible from a design/layout standpoint. Where the "staffs" are abutting, the minimum widths may be reduced to twenty feet (20') each, there shall be no minimum driveway setback from the common property line separating the "staffs", and the use of a shared/common driveway is encouraged. Landscaping shall be installed to provide a visual buffer between driveways and the side and rear yards of any adjacent residential properties; however, the landscape buffer shall be optional between adjoining driveways in adjoining "staffs".

e. Unless otherwise specified by the zoning administrator, the front lot line of a flag lot shall be the lot line which is closest and most nearly parallel to the street to which the "staff" portion of the flag lot connects.

(Ord. No. O98-18, 10/7/98; Ord. No. 05-34(R), 12/20/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-22(R), 10/20/09)

Sec. 24.1-203. Computation of buildable or developable area.

In accordance with the comprehensive plan, certain land areas shall not be developed at all and others may only be credited partially toward buildable or developable area. These shall be determined on a case-by-case basis utilizing the percentages shown in the table below where:

The *"Density"* column contains the percentage of the specified land type which may be included in calculations of net developable density;

The *"Lot size"* column contains the percentage of the specific land type which may be included to meet minimum lot size requirements; and

The *"Platted"* column contains the percentage of the specified land type which may be platted as part of individual lots for transfer to a party **other** than a property owners' association or similar entity such as a land conservation trust.

In all cases, the zoning administrator shall be satisfied that each and every lot platted contains a sufficient building site for the future use of the property based on its zoning classification at the time the plat is submitted.

Land Area Type	Density	Lot Size	Platted
(a) Existing public or private street or highway right-of-way	0%	0%	0%
(b) Areas required for dedication to eliminate substandard rights-of-way	50%	0%	0%
(c) Existing and proposed public or private utility easements greater than twenty feet (20') in width	0%	0%	100%
(d) Existing and proposed public or private utility easements twenty feet (20') and less in width	100%	100%	100%
(e) Existing and proposed easements providing public rights of access or which access community facilities	100%	50%	100%
(f) Areas four feet (4') and less above mean sea level as determined by NGVD 1929 datum (National Geodetic Vertical Datum)	0%	0%	100%
(g) Areas of existing ponds, lakes, or other impounded water bodies measured to the mean high water level at the natural outfall or emergency spillway	0%	0%	100%(1)
(h) New stormwater management ponds or basins required to be constructed to serve a development project	100%	0%	0%(2)
(i) Area in excess of one-tenth acre of USEPA/Corps of Engineers jurisdictional non-tidal wetlands (3)	50%	0%	100%(1)
(j) Naturally occurring (predevelopment) slopes:			
(1) less than twenty percent (20%)	100%	100%	100%

(2) twenty (20%), but less than thirty percent (30%)	75%	50% [4]	100%
(3) thirty percent (30%) or greater	50%	25% [4]	100%

[1] When platted, a conservation easement running to the benefit of the County or other entity deemed appropriate by the zoning administrator shall be provided.
[2] This does not preclude onsite stormwater management entirely within the bounds of a single lot where no subdivision is proposed.
[3] Jurisdiction is determined by the U.S. Army Corps of Engineers, not by York County. No reduction shall be required for upland areas which are required as mitigation areas under permits issued by the Corps of Engineers or Virginia Department of Environmental Quality. No reduction shall be required for jurisdictional areas within which filing is permitted by the Corps of Engineers or Department of Environmental Quality.
[4] 85% on lots two (2) acres and larger.

(Ord. No. O98-18, 10/7/98; Ord. No. 05-13(R), 5/17/05; Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-204. Area requirements for lots without public utilities.

The lot area requirements set forth in the district regulations of this chapter are predicated on the availability of public water service and public sewer service to each lot. Any lot created after the adoption of this chapter and not served by a public water supply or a public sewer facility shall conform to the following area standards, unless greater requirements are specified for the zoning district in which located. Building permits may be issued for construction on existing lots of record which do not meet the area standards set forth below provided that any proposed individual wells and septic systems can be accommodated on the same lot.

AREA REQUIREMENTS FOR LOTS WITHOUT PUBLIC UTILITIES

AVAILABLE PUBLIC UTILITIES	MINIMUM LOT AREA
Neither Public Water nor Sewer	2 acres[1] & [2] [1ha] (5 acres [2.25ha] in RC Districts)
Public Water Only	1.5 acres[1] [0.75ha] (5 acres [2.25ha] in RC Districts)
Public Sewer Only	1 acre[2] [0.5ha] (5 acres [2.25ha] in RC Districts)
Both Public Water and Public Sewer	As required by zoning district regulations

[1] Each lot created shall include an area determined to be suitable for both a primary and reserve on-site septic system installation, with documentation of health department approval for each proposed location.

[2] Each lot created shall include a suitable location for a well as determined by the health department. Documentation must be provided.

(Ord. No. O98-18, 10/7/98)

Sec. 24.1-205. Lot area averaging.

In order to encourage the efficient and improved use of land, where topography, other environmental constraints or the configuration of the parent tract may affect development design, the following standards are hereby established for the purpose of allowing certain variations in minimum lot area requirements for conventional single-family detached dwelling subdivision proposals in the RC, RR, R33, R20, and R13 zoning districts:

(a) One or more lots within such proposed subdivision may be reduced to an area which is not less than seventy-five percent (75%) of the minimum lot area requirement for the district in which located provided that an equal number of lots within the same subdivision are oversized by an equal or greater amount.

(b) The resulting subdivision must contain at least ten (10) lots.

(c) Corner lots, because of their required greater dimensions, shall not be eligible for reduction in area, nor may they be counted as the required oversized lots.

(d) Such proposed subdivision shall be served by public water and public sewer.

(e) Proposed plans for such subdivision shall be submitted for review in accordance with all applicable procedures and requirements of the subdivision ordinance. All plans and plats pertaining to such subdivision shall contain a special notation indicating that the proposal is submitted in accordance with section 24.1-205, lot area averaging, of this ordinance.

(f) All proposed lots shall be of sufficient size, dimension and configuration to provide an adequate buildable area in conformance with the applicable dimensional standards.

(g) Where lot area averaging is proposed for a subdivision within an area classified R-13, the maximum number of lots which may be reduced in area shall not exceed ten percent (10%) of the total number within the proposed subdivision as shown in the proposed preliminary subdivision plan.

(Ord. No. 14-12, 6/17/14)

Secs. 24.1-206—24.1-219. Reserved.

DIVISION 2. GENERAL YARD REGULATIONS

Sec. 24.1-220. Requirements for corner lots.

In the case of corner lots, all yards abutting a street shall be considered front yards and a minimum building setback of thirty feet (30') from a public street right-of-way shall be maintained unless a larger setback is otherwise required. Other special requirements applicable to corner lots are as follows:

(a) The minimum width requirement for each frontage of any corner lot hereafter created shall be equal to the normally required lot width plus the difference between the required front and side yard dimensions for the district in which located provided, however, that the maximum width required as a result of application of this provision shall be one hundred fifty feet (150'). (See Figure II-3 in Appendix A)

(b) *Rear Yard* - The zoning administrator shall determine the required rear yard for a corner lot based on the existing or proposed orientation of the principal building and taking into consideration the orientation of buildings on adjoining properties. (See Figure II-3 in Appendix A)

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-221. Requirements for existing through lots.

In the case of existing through lots which are already developed, the front yard shall be determined by the zoning administrator based on the orientation of the primary structure. For existing through lots which are undeveloped, the front yard shall be oriented to the roadway with the lower traffic volume, unless in a non-residential zone or approved otherwise by the zoning administrator. In all cases of further development of existing through lots, the zoning administrator may require the recording of a restricted access easement across the rear of the property, when it is found that the overall transportation safety and system efficiency would be improved by such action. The creation of through lots shall only occur in accordance with section 20.5-70(f) of the subdivision ordinance. A minimum building setback of thirty feet (30') from a public street right-of-way shall be maintained, regardless of yard, unless a larger setback is otherwise required.

Sec. 24.1-222. Yard requirements in built up areas.

Where fifty percent (50%) or more of the lots within a block are occupied by existing buildings and the average yards (front, rear, or side) of the existing principal buildings are less than that required by this chapter, the average so established may be taken in lieu of that which is otherwise required, provided however that in no case shall a front yard depth so determined be less than twenty feet (20'), or less than the setback line described on a recorded subdivision plat. Any front setback so determined shall be increased as necessary to accommodate any right-of-way reservation area required pursuant to the terms of section 24.1-223. In the case of side or rear yards, no side yard shall be less than ten feet (10') nor shall a rear yard be less than twenty feet (20'). For the purpose

of this calculation, only those lots on the same side of the street on either side of the lot in question for a distance of six hundred feet (600') or to the nearest street intersection, whichever is less, shall be included within the calculation of the average yard unless the zoning administrator shall determine, in writing, that a greater or lesser distance is appropriate based on clearly discernible development patterns and community character.
(Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-223. Front yard requirements adjacent to substandard rights-of-way.

In the event a property being developed abuts a public or private street which has a right-of-way width which is substandard under the standards of the Virginia Department of Transportation or less than the width necessary to accommodate future road improvements based on the comprehensive plan of the county or the plans of the Virginia Department of Transportation or Hampton Roads Metropolitan Planning Organization, the normally required front yard and front perimeter landscape yard depths for said development shall be increased by an amount which is equal to one-half (1/2) of the total right-of-way deficiency. The area so added shall be reserved for future roadway construction, and no structures shall be erected with it in anticipation of the area being incorporated into the existing street right-of-way.

Sec. 24.1-223.1. Special requirements adjacent to unused rights-of-way

In the case of a parcel abutting a primary system highway that is not a limited access roadway or a frontage road associated with a limited access roadway and that is not planned for widening in the current Virginia Department of Transportation Six-Year Plan or in the current Regional Transportation Plan or the York County Comprehensive Plan, if the front property line of said parcel is 50 feet or more from the edge of the existing pavement the 20-foot front landscaped yard required by section 24.1-244 may be reduced to five feet, provided that the Virginia Department of Transportation will allow the landscape planting requirements specified by section 24.1-242 to be met by plantings which shall be installed by the property owner within that 5-foot area and the 15 feet of right of way closest to the front property line, and the 10-foot setback for signs required by section 24.1-702 may be waived and the sign may be located in the area between the normal setback line and the front property line or, in the event the Virginia Department of Transportation authorizes such placement through a land lease or permit arrangement, may be located within 10 feet of the front property line of the parcel and within the VDOT right-of-way, provided however, that any new sign installed pursuant to this section shall be a monument style sign. Should such lease/permit be terminated by VDOT, or should the subject 10-foot area be needed for a public utility project, the property owner shall be responsible for relocating the sign to comply with all applicable sign setback standards then in effect.
(Ord. No. 05-22(R), 8/16/05)

Sec. 24.1-224. Minimum principal building separation.

In the case of development proposals where two (2) or more principal structures are permitted to be located on a single lot, such structures shall be located at least twenty feet (20') from one another.

Sec. 24.1-225. Special yard regulations.

The following special yard regulations shall apply to the development of property:

(a) Awnings and bay windows which are not more than ten feet (10') wide may extend three feet (3') into a required yard.

(b) The ordinary projections of eaves, gutters, uncovered stoops, uncovered landings, chimneys and flues may extend into a required yard.

(c) Mechanical or HVAC equipment may be located in a required side or rear yard, or in required front or side yards if screened from view from public streets and adjacent properties.

(d) Retaining walls determined to be necessary by accepted engineering practice for earth or building

stabilization shall be exempt from yard and setback requirements.

(e) Fences shall be subject to the specific requirements as set forth in division 7 of this article and shall not be subject to yard or setback requirements.

(f) For those lots that do not conform to a typical rectangular shape, lots that have no street frontage, or that abut a water body, and which are not covered by any of the special rules set forth in the preceding sections, the zoning administrator shall establish the location of the front, side and rear lots lines and the associated yards after evaluating the configuration of the property, the character and orientation of surrounding existing or potential land uses, the point(s) of access to the property, the existing or proposed building orientation, and such other factors as deemed appropriate.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-226. Sight distance requirements at intersections

Sight triangles shall be required at all street intersections and site entrances. Sight triangles shall include the area on each corner of a street or entrance that is bounded on two (2) sides by lines running along the pavement edges of the intersecting streets or streets/driveways between the sight points and the point of intersection, and on the third side by a straight line (hypotenuse) connecting the two sight points (see Figure II-4 in Appendix A). The sight point location shall be determined as follows based on the roadway classification:

Street Classification	Distance of Sight Point from Point of Intersection with Another Street or with a Site Entrance
	Feet
Access Street	20
Subcollector	20
Minor Collector	30
Major Collector	40
Minor Arterial	50
Major Arterial	60

(1) Signs, plantings, structures or other obstructions which obscure or impede sight lines between three feet (3') and six feet (6') in height above grade shall be prohibited within the sight triangle.

(2) The sight triangle shall be clearly shown and its purposes noted on all plats and plans.

(Ord. No. 08-17(R), 3/17/09)

Secs. 24.1-227—24.1-229. Reserved.

DIVISION 3. GENERAL HEIGHT REGULATIONS

Sec. 24.1-230. Applicability.

The general height regulations of the district in which a parcel is located shall apply to all principal and accessory structures except as may be specifically provided elsewhere in this chapter. The Airport Safety Management Overlay District height regulations set forth in section 24.1-371 may not be exceeded for any reason except as may be provided within the regulations of the overlay district.

Sec. 24.1-231. Exemptions from height regulations.

(a) The zoning administrator may grant administrative exemptions to the district height regulations to permit reasonable increases in height for the following situations:

(1) Church spires, belfries, cupolas, monuments, chimneys, water towers, fire towers, cooling towers, electric substation components, radio and television antennas may be permitted to exceed the height stipulated in the district regulations by no more than twenty-five percent (25%) if attached to a building, or to a maximum of one hundred feet (100') if free-standing. Wind turbines may be erected to a height not more than 25% greater than the district maximum if mounted on the roof of a commercial, industrial, or multi-family residential structure, or to a maximum of 40 feet if free-standing. The preceding height increase opportunities shall not apply to dish antennas, signs and flagpoles, or other similar structures. The zoning administrator shall determine whether a proposed height increase is necessary to serve a functional purpose as opposed to merely drawing attention to the structure.

(2) Parapet walls or similar structures may exceed the maximum height limit by not more than eight feet (8'). Such walls or structures shall not be used as, for, or to support signs. Pitched roofs on structures located in commercial and industrial zoning districts may exceed the maximum height limit by up to twenty-five percent (25%) provided that the zoning administrator determines that the actual number of building floors with habitable space is no greater than would be allowed with a flat roofed structure and provided further that the fire chief has reviewed and approved the proposed structure and site design to ensure appropriate accessibility for effective fire containment and control, including specifically the location of fire lanes to facilitate the positioning of fire-fighting apparatus and equipment during an emergency response.

(3) Except as noted above, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20').

(4) Buildings and structures used in conjunction with a bona fide agricultural use in an RC or RR district shall be exempt from the height limits specified for those districts. This exemption shall not apply to buildings constructed in conjunction with horsekeeping activities as a residential accessory use.

(b) The board, after conducting a duly advertised public hearing, may authorize exemptions to the height regulations which exceed those which may be authorized administratively, as provided in subsection (a) above. In granting exemptions, the board may impose reasonable conditions. No exemption shall be granted which violates the terms of the airport safety management overlay district.

(Ord No. O98-18, 10/7/98; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-2, 3/16/10)

Sec. 24.1-232. Additional setbacks for structures in excess of fifty feet (50').

(a) Buildings in excess of fifty feet (50') in height, such height for the purposes of this subsection being measured to the highest part of the roof, shall have accessible fire lanes surrounding the entire building which are determined, by the fire chief, to be appropriate for effective fire containment and control in the building.

(b) Any two (2) buildings in excess of fifty feet (50') in height, such height for the purposes of this subsection being measured to the highest part of the roof, shall be separated from each other by no less than forty feet (40').

(Ord. No. 10-1(R), 1/19/10)

Sec. 24.1-233. Special provisions for single-family detached dwellings with increased heights.

(a) Ridgeline or Highest part of the Roof Exceeding Thirty-five Feet (35'): Any single-family detached

dwelling having a ridgeline or highest part of the roof in excess of thirty-five feet (35') above average finished grade shall be designed and constructed to meet the following standards:

(1) Exterior access to both the roof and the uppermost occupied story shall be no higher than thirty feet (30') above finished grade at any point.

(2) The building and site shall be designed and maintained to ensure there are no obstructions that would impede or prevent access by ground ladders or aerial ladder devices to the uppermost story or roof area.

(3) No such structure or portion thereof shall be further than six hundred feet (600') from a fire hydrant.

(4) In situations where the fire hydrant distance requirement cannot be met, the applicant may choose to install an automatic residential fire sprinkler system, approved by the Department of Fire and Life Safety and in conformance with applicable National Fire Protection Association standards (or an approved equivalent). Such system shall be designed to protect all living spaces, garage areas and other spaces deemed necessary by virtue of the building design and, in addition, the building shall be equipped with appropriate fire/smoke detection devices in accordance with the terms of the Building Code. This option shall be available only to those properties served by a public water supply and located within 1,200 feet of a fire hydrant (provided the structure does not require more than one hydrant for adequate fire flows), and provided that the structure, including garage/attic/concealed spaces, is protected by a monitored fire detection and alarm system.

(b) Ridgeline or Highest Part of the Roof Exceeding Forty Feet (40'**):** Any single-family detached dwelling unit having a ridgeline or the highest part of the roof in excess of forty feet (40') above average finished grade shall require authorization by the Board of Supervisors by special exception processed in the same manner as are special use permits. Such authorization shall be in accordance with the following standards:

(1) Exterior access to both the roof and the uppermost occupied story shall be no higher than thirty feet (30') above finished grade at any point.

(2) The building and site shall be designed and maintained to ensure there are no obstructions that would impede or prevent access by ground ladders or aerial ladder devices to the uppermost story or roof area.

(3) The structure, including any garage, attic, or other concealed spaces, shall be protected by a monitored fire detection and alarm system.

(4) The structure shall be within 600 feet of a fire hydrant, or multiple fire hydrants if more than one is required by the fire code based on fire flow requirements for the structure size).

(Ord. No. O97-17, 6/4/97; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-1(R), 1/19/10)

Sec. 24.1-233.1. Special height allowances for single-family detached dwellings located in the 100-year flood hazard zone.

The allowable building height for single-family detached residential structures located in a Special Flood Hazard Area determined pursuant to the terms of Section 24.1-373 of this Chapter may be increased by one foot (1') for each foot the structure is elevated above the base flood level, not to exceed however a building height of forty-five feet (45'), subject to the following standards and requirements:

(a) The minimum required front, side and rear building setback of structures constructed pursuant to this section shall be increased by one foot (1') for every one foot (1') of building height in excess of thirty-five feet (35').

(b) All applicable procedures and requirements of Section 24.1-233 shall be observed.

(Ord. No. 10-1(R), 1/19/10)

Secs. 24.1-234--24.1-239. Reserved.

DIVISION 4. LANDSCAPING, BUFFER, AND GREENBELT REGULATIONS

Sec. 24.1-240. Intent.

The following regulations are intended to establish minimum standards for landscape design and for the preservation of trees in order to better control soil erosion and the transport of sediment, protect and improve the quality of surface and groundwaters, screen noise and dust, and preserve, protect and enhance the natural and built environment.

The transitional buffer regulations established herein are intended to minimize potential conflicts between development on properties located in abutting zoning districts of differing intensities. The purpose of transitional buffers is to ensure that a natural area of appropriate size and density of plantings is located between potentially incompatible land uses.

The greenbelt regulations established herein are intended to implement the specific comprehensive plan designations of greenbelts.
(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-241. Landscape plan.

(a) A landscape plan shall be:

(1) Required in conjunction with any development project requiring site plan or development plan approval;

(2) Prepared and/or certified by a landscape architect, landscape nursery person, horticulturalist, or other design professional practicing within their area of competence; provided, however, that in the case of development proposals involving sites located on a secondary system roadway and classified IL or IG, the landscaping plan may be prepared by the property owner;

(3) Shall cover the entire project area included in the overall site plan or development plan for which approval is sought.

(b) A landscape plan submitted to meet the requirements established by the provisions of this chapter shall include the following information and existing and proposed site landscape features:

(1) Location and identification by size and name, both common and botanical, of all heritage, memorial or specimen trees in open areas on the site which are proposed to be disturbed. In wooded areas, the woodline before site preparation, average size, and predominant species of trees shall be noted, except that any heritage or memorial, within a wooded area proposed for clearing shall be individually located and identified by size and name, both botanical and common.

(2) Existing vegetation to be saved shall be indicated and noted accurately if credits for tree preservation are being proposed or claimed.

(3) Location, dimensions and area of all required buffer and landscape yards, including transitional areas.

(4) Location and description of other proposed landscape improvements such as earth berms, walls, fences, or paved areas including notes and details to describe fully the methods and materials proposed.

(5) Plant list or schedule to include common and botanical name, quantity, spacing and size at time of planting of all proposed plants.

(6) Locations and labels of all proposed plants.

(7) Planting, installation details and tree protection details as necessary to ensure conformance with the standards in section 24.1-242.

(8) Schedules or lists showing required and proposed quantities for landscape items required

by the zoning ordinance.

(c) In preparing landscape plans the following factors shall be considered:

(1) Location of trees, shrubs, groundcovers and other landscaping to utilize effectively the natural capacities of plant materials to intercept and absorb airborne and runoff-related pollutants and to reduce runoff volume, velocity and peak flow increases caused by development.

(2) Preservation and protection of existing viable and mature trees to the maximum extent feasible.

(3) Appropriateness of plants and locations for the specific characteristics of the site and the purpose for installation.

(4) A preference to designs and plant materials with reduced water needs.

(5) An emphasis on landscaping in front of the principal building on the site and on providing appropriate breaks in parking and vehicular areas.

(d) No site or development plan required under the terms of this chapter shall receive final approval unless a landscaping plan has been submitted and approved.

(e) No certificate of zoning compliance or certificate of occupancy may be issued unless the following criteria are fully satisfied with regard to the approved landscape plan:

(1) Such plan has been implemented on the site; or

(2) Such plan, because of seasonal conditions, cannot be implemented immediately, but has been guaranteed by a postponed improvement agreement between the developer and the county in a form acceptable to the county attorney, and secured by a letter of credit, cash escrow or other instrument acceptable to the county attorney in an amount equal to the cost of such installation plus a reasonable allowance for estimated administrative costs, inflation and potential damage to existing vegetation or improvements (see sample agreement in Appendix B). An irrevocable fully executed contract with a landscape contractor or nursery providing for such installation shall be deemed to be a sufficient guarantee for the purposes of this section.

(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-242. Landscaping standards.

(a) *Maintenance of landscaping and screening*. The property owner, or the owner's successors, shall be responsible for the maintenance of all landscaping, fencing, and screening materials required by this chapter or under the terms of other development approvals and shown on an approved landscape plan. Failure to maintain such landscaping, fencing and screening shall be deemed a violation of this chapter.

(1) All plant material and planting areas required by this chapter or other development approval shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse, litter, and debris. The replacement provision for landscaping shall apply only to plants that were required to be installed or that were awarded preservation credits as part of the site plan approval process.

(2) All fences, walls, and screening required by this chapter shall be maintained in good repair.

(3) In the event that any *required* landscaping material shown on the plan is subsequently replaced, the new material shall conform with the original approved landscape plan, or an approved amended plan, with respect to size and characteristics of the plantings. In meeting the terms of this section, the replacement of mature trees which were counted toward the original landscape compliance shall be with trees of a similar species and of a size that meets the standards for new installations.

(b) *Source standards.* All plant materials installed on a site shall have been grown in conformance with

the American Standard for Nursery Stock, provided however that the zoning administrator may approve, in writing, the transplanting of trees or shrubs when such transplanting is done in accordance with accepted horticultural and silvicultural practices.

(c) *Standards for berms and earth forms.* All berms and earth forms required or otherwise proposed for use shall conform with the following standards (See Figure II-5 in Appendix A):

(1) Design should include physical variations in height and alignment

(2) Landscape plant material installed on berms and earth forms should be arranged in an irregular pattern to accentuate variation and achieve a natural appearance.

(3) Location and design shall minimize disturbance to existing trees located on the site or adjacent thereto.

(4) Sight triangle provisions contained in this chapter and the subdivision ordinance shall be observed.

(d) *Layout and design standards*. Except as may be otherwise required by this article, the following layout and design standards shall apply to all landscape plans:

(1) All trees installed to meet the requirements of this chapter shall be comprised of a combination of tree types (e.g., deciduous shade, evergreen, flowering ornamental) unless otherwise specified. No more than fifty percent (50%) of the required trees shall be of one type (i.e., deciduous, evergreen), nor shall more than twenty-five percent (25%) of the required trees be of a single species.

(2) All trees installed to meet the requirements of this chapter should be dispersed throughout the required planting areas, should be planted with a combination of single and groups of trees in a staggered, clustered or other pattern designed to complement the building and site design and promote appropriate views and sight lines. Trees shall not be installed in a continuous single row except where necessary and appropriate to meet screening or transitional buffer requirements.

(3) Shrubs, perennials and ornamental grasses installed to meet the requirements of this chapter should be installed in groupings and integrated with trees.

(4) Existing vegetation which is suitable for use in the landscape shall be preserved and used as required plantings to the maximum extent practicable. In no case shall any viable mature, heritage, memorial, specimen or significant tree be removed from any buffer area or landscape preservation easement except to accommodate necessary entrances or utility service to the site which cannot be relocated in an appropriate manner or where such preservation would create or perpetuate demonstrable public health, safety, or welfare hazards.

(5) Impervious surface area should be limited to the minimum amount necessary to accommodate the desired development and ensure appropriate levels of parking, traffic safety, and on-site circulation. The zoning administrator may require plan modifications which reduce the amount of impervious surface area without inhibiting site development and operation.

(6) Modifications of the layout and design standards contained herein may be approved by the zoning administrator upon a determination that all of the following conditions exist.

a. The proposed layout and design furthers a readily discernible theme or complements the architectural style of the structures on site. The lining of an entrance road or driveway with trees of the same species in straight lines parallel to the road or driveway in an attempt to further a colonial or antebellum theme expressed in the architecture of the buildings or the use of massed ornamental plantings to highlight or complement a unique architectural or natural feature are examples.

b. The proposed layout and design provides landscaping which will have the same or similar screening impact, intensity, or variation throughout the year when viewed from adjacent properties or rights-of-way as that which would be required by strict

interpretation of the standards contained in this subsection.

c. The proposed layout and design fully integrates and complements the existing trees to be preserved on the site.

(7) Any trees or shrubs installed or preserved on the site which exceed the minimum numerical requirements of this chapter shall not be subject to the species mixture, locational, maintenance or replacement requirements contained herein.

(e) *Tree protection standards.*

(1) Trees which are to be preserved on site shall be protected before, during and after the development process utilizing accepted practices. At minimum, the tree protection practices set out in the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992 shall be utilized.

(2) Trees selected for preservation in order to obtain landscaping credits shall be shown on the landscape plan and clearly marked in the field. In woodland areas, groups of trees shall be selected for preservation rather than single trees wherever possible.

(3) Trees and groups of trees which are to be preserved shall be enclosed by a temporary fence or barrier to be located and maintained five feet (5') outside of their dripline during construction. Such a fence or barrier shall be installed prior to clearing or construction, shall be sufficient to prevent intrusion into the fenced area during construction, and in no case shall materials, vehicles or equipment be stored or stockpiled within the enclosure. Within the fenced area, the topsoil layer shall not be disturbed except in accordance with accepted tree protection practices.

(4) The developer shall be responsible for notifying all construction personnel of the presence and purpose of clearing limits and protective fences or barriers and for ensuring that they are observed.

(5) Where grade changes in excess of six inches (6") from the existing natural grade level are necessary, permanent protective structures such as tree wells or walls shall be properly installed.

(f) *Selection of trees for preservation.* In determining which trees shall be preserved during the development process, consideration shall be given to preserving trees which:

(1) Are heritage, memorial, significant and specimen trees

(2) Complement the project design including the enhancement of the architecture and streetscape appearance

(3) Can tolerate environmental changes to be caused by development (i.e., increased sunlight, heat, wind and alteration of water regime)

(4) Have strong branching and rooting patterns

(5) Are disease and insect resistant

(6) Complement or do not conflict with stormwater management and Best Management Practice designs

(7) Are located in required buffer areas

(8) Exist in natural groupings, including islands of trees

(9) Do not conflict with necessary utility, structure, parking area, roadway or sidewalk placements

(10) Have been recommended by the Virginia Department of Forestry, the York County Cooperative Extension Service or a qualified arborist or urban forester for preservation.

(g) *Species standards*. All required landscape plant material proposed to be installed on the site shall

be selected from the appropriate listing of recommended plant material contained in tables II-1 through II-7 in Appendix A and shall be of the minimum sizes noted provided, however, that alternative species may be used, upon certification by a certified landscape architect, landscape nurseryman or horticulturalist that said species have a rated hardiness and growth habit appropriate for the intended location. Particular attention shall be given to selecting trees and shrubs based on the area in which they will be installed (e.g., landscaped yards, parking areas, adjacent to buildings, etc.) and the lists contained in Appendix A will assist in the selection and review of a landscaping design. In addition, landscaping shall be selected and arranged with appropriate attention to future growth and maturity in order to accommodate visibility, safety and aesthetic considerations without need for future severe pruning or removal.

All landscaping required within this chapter shall conform with the following minimum size standards unless specifically modified by other provisions contained herein:

(h) *Numerical standards:*

(1) Unless a greater or lesser number or ratio is specified elsewhere in this chapter as it pertains to specific development types and forms, the following planting ratios shall be required (all fractional calculations shall be rounded up to the next highest whole number):

Planting Calculations	
Location	**Landscape Credit Unit (LCU) Requirement** (required credits per 100 linear feet measured at lot line or building face)
Front Yard	40 credits per 100 feet
Side Yard(s)	10 credits per 100 feet
Building Perimeter	15 credits per 100 feet
Parking Lot	15 credits per 10 spaces

In the case of front yards, side yards and parking lots, a minimum of 50% and a maximum of 75% of the landscaping credits must be earned from trees. In the case of building perimeters, a minimum of 25% and a maximum of 50% of the landscaping credits must be earned from trees. Ornamental grasses and perennials may be incorporated into the landscape design and shall be eligible for achieving up to 25% of the required/proposed shrubs credits.

(2) Landscaping credits shall be awarded/earned based on the values established in the following table:

Landscape Credit Unit (LCU) Values			
New Planting	Deciduous (Minimum Caliper)	Evergreen or Ornamental (Minimum Height)	LCU value
Trees	3 inches	10 feet	9
	2.5 inches	9 feet	6
	2 inches	8 feet	5
	1.5 inches	6 feet	3
Shrub	*18 inches height or spread*		2
Ornamental Grasses or Perennial Beds	1 gallon size		1
Existing Tree	Minimum Caliper		LCU value
Mature	> 13 inches		15
Large	11 to 13 inches		12
Medium	6 to 10 inches		8
Small	3 to 5 inches		5

(Ord. No. 03-42(R), 12/2/03; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-243. Transitional buffers.

(a) *Buffer types*. Transitional buffers of the following types shall be provided in the situations identified by the entries in the table contained in section 24.1-243(b) below. Where there is no entry for a particular combination of districts, no transitional buffer shall be required. The layout, design, and arrangement of the prescribed numbers and types of landscape materials shall be in accordance with the provisions of section 24.1-242 of this chapter. Plants shall be positioned to achieve the greatest benefit in terms of buffering the views of adjacent and potentially incompatible uses. The use of staggered double rows of plant materials is encouraged as a technique to achieve maximum screening benefits. Shrubs planted in the transitional buffer shall be of a type that will have a mature height of at least four (4) feet and when located within an existing or newly planted wooded area, shall be selected based on their suitability for shaded areas and any other growth-inhibiting characteristics of the subject area.

(1) *Transitional Buffer Type 25*: shall consist of a strip of open space, a minimum of twenty-five feet (25') wide, landscaped with evergreen trees and shrubs to achieve a minimum of 0.75 landscape credits for every linear foot measured along the outside edge of the transitional buffer. A maximum of 70% of the landscape credits may be earned from shrubs.

(2) *Transitional Buffer Type 35*: shall consist of a strip of open space, a minimum of thirty-five feet (35') wide, landscaped with evergreen trees and shrubs to achieve a minimum of (1) landscape credit for every linear foot measured along the outside edge of the transitional buffer. A maximum of 70% of the landscape credits may be earned from shrubs.

(3) *Transitional Buffer Type 50:* shall consist of a strip of open space, a minimum of fifty feet (50') wide, landscaped with evergreen trees and shrubs to achieve a minimum of 1.25 landscape credits for every linear foot measured along the outside edge of the transitional buffer. A maximum of 50% of the landscape credits may be earned from shrubs.

(4) Upon specific written request, the zoning administrator may modify the landscaping requirements for transitional buffers which have been designed by a certified landscape architect in order to preserve mature trees, facilitate a clearly discernible development and planting theme, or complement the arrangement and type of surrounding landscaping provided, however, that the landscape architect must certify that the modified buffer will provide at least the equivalent buffering as would otherwise be required and that the buffering will be from landscape means (i.e., exclusive of fencing).

(5) The zoning administrator may require supplementary fencing either temporarily or permanently in order to ensure that the appropriate degree of visual buffering and noise attenuation is achieved.

(b) *Transitional buffer provision matrix.* Transitional buffers shall be provided as follows:

TRANSITIONAL BUFFERS																	
						RESIDENTIAL DISTRICTS					COMMERCIAL & INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	YVA	PD	RMF	NB	WCI	LB	GB	EO	IL	IG
RC	X									25	25	25	25	35	35	50
RR		X								25	25	35	35	35	35	50
R33			X							25	25	35	35	35	35	50
R20				X						25	25	35	35	35	50	50
R13					X					25	25	35	35	35	50	50
R7						X				25	25	35	35	35	50	50
YVA							X			25	25	25	35	35	50	50
PD								X		25	25	25	35	35	50	50
RMF									X	25	25	25	25	25	35	50
NB	25	25	25	25	25	25	25	25	25	X				25	35	50
WCI	25	25	25	25	25	25	25	25	25		X				35	50
LB	25	35	35	35	35	35	25	25	25			X			35	50
GB	25	35	35	35	35	35	35	35	25				X			35

	EO	35	35	35	35	35	35	35	35	25		25				X		25	
	IL	35	35	35	50	50	50	50	50	35		35	35	35			X	25	
	IG	50	50	50	50	50	50	50	50	50		50	50	50	35	25	25	X	

(c) *Buffer location standard.* Transitional buffers shall be installed along the zoning district lines at such time as any development or site modification requiring site plan approval on property abutting such district lines occurs. For the purposes of the following provisions, residentially-zoned property that has been subdivided into lots or that has an area of less than 2.5 times the minimum lot size for the district in which located shall be considered "developed" property, whether or not houses have been constructed on those lots. The location of transitional buffers shall be determined as follows:

(1) Where both properties are currently undeveloped and one of the properties is residentially-zoned, the buffer shall be established entirely on the residentially zoned property whenever it develops. In other situations where both properties are undeveloped, one-half (1/2) of the required transitional buffer shall be established on each of the parcels in the order in which developed. The width of the buffer on the respective properties may be modified by mutual agreement of the property owners involved as evidenced by a lawfully executed agreement(s) and easement(s) between the property owners specifying how the buffer is to be shared; such agreement(s) and easement(s) shall be recorded at the expense of the applicant in the name of the property owner(s) as grantor(s) in the office of the clerk of the circuit court. A landscape preservation easement shall be established over the area encompassed by the required buffer with the county and each property being granted rights under that easement.

(2) Where one property has previously been lawfully developed, the required transitional buffer shall be provided entirely on the undeveloped property unless an agreement evidenced by a lawfully executed easement between the two property owners to share the buffer in a mutually agreeable manner is executed; such easement shall be recorded at the expense of the applicant in the name of the property owners as grantors in the office of the clerk of the circuit court. In the latter case, the zoning administrator shall ensure that the required buffer is installed in an acceptable manner and that a landscape preservation easement is granted over the buffer areas to the county and each of the subject properties. When a commercially or industrially-zoned parcel occupied by a residential structure is being redeveloped for non-residential purposes and the parcel abuts a residentially-zoned parcel that is "developed" as defined above, the parcel zoned commercial or industrial shall be considered "undeveloped" and shall be responsible for the full buffer width unless an alternate agreement is reached by the abutting property owners.

(3) Where the properties on both sides of the zoning line have been previously developed, but one is being redeveloped or otherwise modified to the extent that site plan review and approval is required, said property shall be responsible for providing ½ of the normally required transitional buffer as part of the redevelopment/site modification plan. When the property being redeveloped is commercially or industrially-zoned and is occupied by a residential structure that is being converted to non-residential use or being demolished, and the parcel abuts a residentially-zoned parcel that is "developed" as defined above, the parcel zoned commercial or industrial shall be considered "undeveloped" and shall meet the buffer standards prescribed in subsection (2) above.

(4) Where the zoning district line is defined by the centerline of a right-of-way, the transitional buffer shall be installed along the right-of-way line on the property having the higher zoning intensity.

(The chart in subsection (b) above lists the zoning districts in order of intensity from least intense at the top and left to most intense at the bottom and right.)

The zoning administrator may grant relief from these requirements as provided in subsection (f) of this section.

(d) *Design standards.*

(1) Transitional buffers shall be continuous except where driveways or other breaks are necessary. To the extent possible, driveways should be curved in order to preserve the view-obstructing qualities of the transitional buffer area. Multiple breaks of the transitional area

shall not be permitted except to provide an efficient and safe site access and internal circulation pattern.

(2) Transitional buffers shall not be used for accessory structures, storage, or off-street parking or loading.

(3) Utility easements shall not be located within transitional buffers except those which cross the buffer at a right angle. Where the zoning administrator determines that a certain utility location or configuration which is essential conflicts with this standard, the administrator may, in writing, modify this requirement by imposing different standards to achieve an equivalent buffering effect.

(e) *Relationship between transitional buffer and other elements*. Transitional buffers shall relate to other required design elements as follows:

(1) *Yard requirements and setbacks*. Where a transitional buffer is required along a property line, the minimum yard and setback along said property line shall be the greater of the yard and setback required for the particular zoning district or the width of the transitional buffer.

(2) *Landscape yards*. Landscape yards may be incorporated into the transitional buffer and no additional landscaping above and beyond that required for the transitional buffer shall be necessary.

(f) *Modification of buffer standards*.

(1) Where the zoning district boundary line which requires a transitional buffer follows a public street or highway right-of-way of less than ninety feet (90') in width, the following shall apply:

a. Where an industrial district abuts a residential district, the normally applicable transitional buffer shall be provided and may not be reduced or modified in any way;

b. In any situation other than an industrial district abutting a residential district, the required transitional buffer may be reduced to one-half (1/2) the normally required width, or twenty feet (20'), whichever is greater. In such cases, the landscaping and design standards for the required transitional buffer yard may be modified to include appropriate trees and shrubs which visually screen all parking, loading, and storage areas, but not the buildings; however, in no case shall the planting ratio be less than that required for a Type 25 Buffer.

(2) Where the zoning district boundary line which requires a transitional buffer follows a public street or highway right-of-way ninety feet (90') or greater in width, no transitional buffer shall be required.

(3) Where adjacent properties of differing zoning intensities are being developed in a cohesive, planned and coordinated manner under the equivalent of a master development plan, the zoning administrator may waive or reduce any transitional buffer required along zoning district lines which are internal to the development.

(4) Where the adjacent property giving rise to the need for a transitional buffer is under public ownership, is likely to remain under public ownership, and is managed for watershed purposes, the otherwise required transitional buffer shall be waived. Where the adjacent public land is managed as public park land, the zoning administrator may modify or waive the transitional buffer requirement consistent with the public interest in the park land.

(5) Where property on which a transitional buffer is required has already been developed in a manner which precludes full implementation of these requirements, the zoning administrator may modify these requirements on a case-by-case basis to achieve as much of the desired buffering as is possible. In making such modifications, the zoning administrator may consider balancing the existing development with the needs of the community at large. Modifications could, for example, include the use of berms or increased numerical planting requirements in lieu of the otherwise required transitional buffer width.

(6) Where the zoning district boundary along which a transitional buffer is required traverses environmentally sensitive land or water features, the zoning administrator may modify the

location, layout, arrangement, and design in an appropriate manner which balances the buffering requirements with the environmental resources.

(7) Where a properly engineered and designed landscaped berm is proposed to supplement the screening / buffering qualities of a required transitional buffer, the zoning administrator may authorize up to a 25% reduction in the required buffer width. Minimum heights for berms proposed for this purpose shall be as follows:

Type 25 Buffer - Minimum Height: 2 feet
Type 35 Buffer - Minimum Height: 3 feet
Type 50 Buffer - Minimum Height: 4 feet

(g) *Transitional buffers abutting properties in adjacent jurisdictions*. Where a commercial or industrial district abuts property in an adjacent locality which is in a residential zoning district and used as such, a transitional buffer shall be provided as if the abutting property were classified RC (resource conservation).

(Ord. No. 03-42(R), 12/2/03; Ord. No. 09-22(R), 10/20/09; Ord. No. 14-12, 6/17/14)

Sec. 24.1-244. Landscape yards.

(a) All proposed new developments shall include landscape yards around the perimeter of the site and the buildings erected on the site in order to facilitate adequate control and management of storm-water runoff and of non-point source pollution as well as to enhance the aesthetics of the project. In the case of expansions or redevelopment of existing development, perimeter landscape yards of the specified size, or as near to that size as determined practical by the zoning administrator, shall be provided on all sides of the site adjacent to such expansion or redevelopment.

(1) The minimum dimensions of landscape yards around the site perimeter shall be twenty feet (20') for front yards and ten feet (10') for side and rear yards, to be measured from the lot line or, where drainage ditches or structures are located or are proposed to be located along lot lines, from the top or inside edge of the open ditch or structure. Landscape yards, as required herein, may include driveways providing access to other parcels in an effort to promote unified project design.

(2) The zoning administrator may approve the transfer of up to fifty percent (50%) of the required landscape yard located behind the rear of the principal building on the site to the area in front of the principal building on the site provided that all of the following conditions are met:

a. No remaining landscape yard shall be less than five feet (5') in width;

b. The total amount of landscaped open space on the site is not less than it would be without the transfer; and

c. No required transitional buffer is reduced.

(3) Landscape yards shall be landscaped with trees, shrubs, bushes, plant material and ground cover in accordance with the provisions of section 24.1-242 of this chapter. If transfers have occurred, the transferred area shall be landscaped in accordance with the requirements for the area from where it was transferred.

(b) A landscaped open space strip a minimum of ten feet (10') in width shall be provided adjacent to and surrounding all buildings and shall be landscaped in accordance with the provisions of section 24.1-242 of this chapter. This open space strip may be bisected by necessary entrances to the building and may include bicycle accommodations and pedestrian sidewalks serving the entrances provided that no more than fifty percent (50%) of the open space strip may be comprised of impervious surfaces. In no case shall off-street parking be located within ten feet (10') of any building on the site.

(1) That portion of this landscaped open space required at the rear of the principal building may be transferred to the perimeter landscape yard in order to provide additional screening and buffers for adjacent streets or developed properties.

(2) Where the proposed structure, by reason of its intended use and market orientation, requires vehicular access into the front, sides or rear of the building, the zoning administrator may approve the transfer of the required landscaped open area adjacent to the structure to the perimeter landscape yard in order to provide additional screening and buffers for adjacent streets or developed properties. At least fifty percent (50%) of the area transferred shall be transferred to that portion of the perimeter area located in front of the principal building on the site.

(2) If transfers have occurred, the transferred area shall be landscaped in accordance with the requirements for the area from where it was transferred.

(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-245. Greenbelts.

(a) Greenbelts shall be provided contiguous to the street right-of-way along the following roads in accordance with the specified minimum widths:

(1) Bypass Road (Route 60) - 35 feet

(2) Denbigh Boulevard (Route 173) - 35 feet

(3) Fort Eustis Boulevard (Route 105) -35 feet

(4) Hampton Highway (Route 134) - 35 feet

(5) Merrimac Trail (Route 143) between I-64 at Exit 230 (Camp Peary/Colonial Williamsburg) and Queen Creek **-** 45 feet

(6) Penniman Road (Route 641) between the Colonial Parkway and Route 199 - 45 feet

(7) Route 132 - 45 feet

(8) Route 199 - 45 feet

(9) Victory Boulevard (Route 171) - 35 feet

(10) East Rochambeau Drive from Oaktree Road (west) intersection to Mooretown Road and from Mooretown Road to dead end - 45 feet

(11) Mooretown Road from Lightfoot Road to a point 1,400 feet south of its intersection with Clark Lane - 45 feet

(12) Mooretown Road from Airport Road to Waller Mill Road - 45 feet

(13) Lightfoot Road from Route 60 to Rochambeau Drive (west) - 45 feet, except where the parcel also has frontage on Route 199, in which case the Lightfoot Road greenbelt shall be 35 feet.

(14) Rochambeau Drive (west) from Lightfoot Road to James City County line - 45 feet

(15) Interstate 64 – 45 feet

The 10-foot perimeter landscape strip normally required at the rear of buildings by Section 24-244(b) of this Chapter shall not be required on parcels subject to the 45-foot Greenbelt provision.

(b) Along the Colonial Parkway, a greenbelt of no less than three hundred feet (300') from the nearest edge of the roadway shall be provided. This may include property owned by the National Park Service.

(c) The greenbelt shall be left in an undisturbed natural state, unless the board, after conducting a duly advertised public hearing, authorizes clearing or development. Unvegetated or under-vegetated greenbelts shall be landscaped in accordance with the following planting requirements as if they were front yards:

35 foot Greenbelt	70 landscape credits per 100 linear feet
45 foot Greenbelt	90 landscape credits per 100 linear feet

Normally required front yard landscape credits may be counted toward these requirements. Nothing in this section however, shall be interpreted to preclude the following activities within greenbelts: (1) the planting of additional trees, shrubs or groundcovers, or the maintenance thereof; (2) the construction and maintenance of bicycle and pedestrian facilities; (3) the establishment, construction, and maintenance of necessary entrances to the site; (4) limited clearing of underbrush, nuisance plants, dead or diseased plants/trees, or limbs/understory necessary to provide reasonable sight lines to a commercial establishment; or (5) the installation of utilities necessary to serve the development provided that the crossing of the greenbelt minimizes disturbance to the greatest extent possible; or (6) the installation of signs which do not require disturbance of existing trees, except to the extent necessary to open limited sight lines for the signs All of these may occur under the terms of an approved plan.

Where an existing or proposed utility easement greater than twenty (20) feet in width runs parallel to the right-of-way requiring the greenbelt, the required greenbelt dimension shall be increased by one (1) foot for every foot of easement width in excess of twenty (20) in order to ensure the availability of sufficient unencumbered greenbelt width for retention or placement of landscaping.

(d) If approved, modifications shall preserve the feeling and sense of the natural character of the greenbelt as it currently exists and application for modifications shall contain pre-development and post-development renderings. In the event the board approves disturbance of a greenbelt, it may require the area to be re-landscaped at the ratios specified for unvegetated buffers, or at such other ratios as it may deem appropriate. The cost of advertising and conducting public hearings to consider modifications shall be borne by the developer making the request.

(e) Greenbelts shall be open space that is owned and maintained by a property owners' association, conservation land trust, or equivalent entity. Alternatively, a landscape preservation easement granted to the county or an appropriate land trust may be utilized.

(f) Commercial properties fronting greenbelt roads shall be permitted to open limited sight lines which allow indirect views of buildings, but generally block views of parking. Such sight line clearing shall be shown on the landscape plan for the site which shall include both plan and perspective views.

(g) For purposes of calculating residential densities, the area encompassed by the greenbelt shall be considered as developable acreage in such computations.

(Ord. No. O98-18, 10/7/98; Ord. No. 03-42(R), 12/2/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 09-22(R), 10/20/09; Ord. No. 10-24, 12/21/10)

Secs. 24.1-246—24.1-249. Reserved.

DIVISION 5. TRANSPORTATION SYSTEMS ANALYSIS, MANAGEMENT AND SAFETY

Sec. 24.1-250. Intent.

The traffic analysis and management requirements established herein are intended to promote a safe and efficient transportation network by minimizing potential traffic conflicts.

Sec. 24.1-251. General traffic management and analysis requirements.

(a) *Applicability.* The provisions of this section shall apply to all new development as follows:

(1) Any residential, commercial, industrial use, or combination thereof, where the anticipated average weekday twenty-four (24) hour traffic generation, using the Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition or as it may from time to time be amended) equals or exceeds one thousand (1,000) trip ends or where the traffic volume during a peak hour equals or exceeds one hundred (100) trip ends unless the zoning administrator shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic im-

pact.

(2) Any development or subdivision of a portion of property where the potential average weekday twenty-four (24) hour traffic generation, using the Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition or as it may from time to time be amended) for the developable portion of the entire property based on permitted uses under existing zoning equals or exceeds one thousand (1000) trip ends or where the traffic volume during a peak hour equals or exceeds one hundred (100) trip ends, regardless whether the remainder of the property is currently proposed for development unless the zoning administrator shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(3) Any request for amendment of the zoning map or for a special use permit other than those requests initiated by the commission or board, where the anticipated average weekday twenty-four (24) hour traffic generation, using the Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition or as it may from time to time be amended) equals or exceeds one thousand (1000) trip ends or where the traffic volume during a peak hour equals or exceeds one hundred (100) trip ends unless the zoning administrator shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(4) Any non-residential development which proposes to access a street which is residential in character and classified as a minor collector or lower order street.

(5) Any other development proposal which, as determined by the zoning administrator, has a significant potential to cause or aggravate traffic safety or congestion problems and, as such, would benefit from a professional review of proposed access and circulation designs.

(b) *Special standards and requirements*.

(1) For any development described in subsection (a) above, a traffic impact analysis, prepared by a transportation engineer or planner, shall be submitted for review and consideration by the county and the Virginia Department of Transportation. A minimum of five (5) copies of such traffic impact analysis shall be submitted to the county at the same time as the initial application for development or zoning approval. Subdivision plats, site plans, rezoning applications, use permit applications, and other development proposals for which a traffic impact analysis is required shall not be deemed to be received until the traffic impact analysis is submitted.

(2) The submitted traffic impact analysis shall, unless otherwise approved by the zoning administrator in writing, contain the following information and analysis:

a. *Existing conditions summary*—including twenty-four (24) hour volumes, peak periods and peak volumes on adjacent roadways, peak periods and peak volumes of the generator, and peak hour factor(s); roadway geometrics; grades; lateral clearance; heavy vehicle, pedestrian, bicycle, and recreational vehicle percentages; existing lane configurations; traffic control devices and timing plans if signals are present and, if appropriate, level of service analysis.

b. *Future conditions summary*—including the horizon (analysis) year(s) and the criteria used in its selection, committed future roadway improvements, traffic growth factors combined with forecasts for adjacent sites to determine future background traffic (both twenty-four (24) hour and peak period), and, if appropriate, level of service analysis, compared with existing conditions.

c. *Trip generation and design hour volumes*—including traffic forecast for site development to include twenty-four (24) hour and peak hour volumes both for the traffic generator itself and on adjacent roadways. Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition, or as it may from time to time be amended) rates or equations shall be used unless verifiable local data is available. Any assumptions or adjustments shall be fully documented and, where appropriate, justified with source references provided.

d. *Trip distribution and traffic* assignment—including a directional distribution of site traffic to its area of influence based on primary market, analogy, origin-destination, gravity model, or other similar methods. Each step in the process shall be fully and carefully documented.

e. *Design year total volumes*—developed for both twenty-four (24) hour and for the peak periods of the generator and on adjacent roadways.

f. *Capacity analysis*—including intersection and lane capacity based on the 1994 Highway Capacity Manual as it may from time to time be amended and revised. Where intersections (both signalized and unsignalized) are spaced in such proximity or the volumes are such that the intersection does not operate independently, appropriate progression and queuing analyses performed using a recognized methodology or analysis or simulation package must accompany the capacity analyses.

Capacity analyses shall be prepared for each potential access design scenario. Any assumptions and adjustments to the default values in the 1994 Highway Capacity Manual shall be fully documented and justified. These include, but are not limited to, peak hour factor, average running speeds, and cycle lengths, especially very short or long cycles. All worksheets shall be submitted.

g. *Traffic accidents and safety analysis*. The distribution and frequency of traffic accidents shall be analyzed and a determination made as to whether any safety deficiencies exist or will be caused or exacerbated. This shall specifically include a safety analysis of all proposed street extensions.

h. *Traffic improvements.* The recommended roadway and traffic network improvements based on the design hour in the design year shall be shown on a scaled plan sheet with appropriate narrative. Such improvements shall be designed to yield a minimum level of service of "C" as defined by the 1994 Highway Capacity Manual as it may from time to time be amended, supplemented, or revised. Where the existing conditions provide a current level of service (LOS) of less than "C," the improvements shall be designed to at least maintain the current volume to capacity ratio as determined by the methods contained in the 1994 Highway Capacity Manual without further degradation through the design year plus two (2) years. For intersections, the LOS “C” standard shall be met on an average of all movements basis. The developer shall be responsible for implementing the improvements proposed by the traffic study, subject to approval by the Virginia Department of Transportation. A detailed construction cost estimate of the required improvements shall be provided.

i. *Internal site improvements*. Including the number and width of driveway lanes, the appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycle facilities, and any other facilities or accommodations and any other factor which could impact traffic operations along the adjacent roadways or overall traffic safety, both internal and external. The internal circulation system shall be designed to preclude stacking or queuing in the travel lanes of adjacent roadways during the peak hours of the traffic generator.

j. *Conclusions*. Including all conclusions of the analyst applicable to the site, particularly with respect to the appropriate timing and phasing of improvements. Timing and phasing must be clearly tied to identifiable stages of development or specific time frames. Conclusions about the relative safety of the post-development situation shall also be included.

k. *Summary of findings and recommendations*. An executive summary containing key findings and recommended actions.

(3) All intersections, commercial entrances, median breaks, pavement markings, driveways, or other roadway features potentially affecting traffic flow located within five hundred feet (500') of the proposed development as well as all intersections and driveways internal to the development shall be considered and either shown or clearly noted on a scaled plan submitted with the traffic impact analysis.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-252. Access management.

(a) Access to a use shall be considered to be part of the use and shall require an equivalent or greater intensity zoning classification, unless over a publicly owned and maintained right-of-way. Any entrance or driveway from an existing or proposed non-residential use to a street created as part of a residential sub-

division, classified as a minor collector or lower order and located within a residential zoning district shall be authorized only upon the issuance of a special use permit by the board. Prior to considering requests for such special exceptions, the board shall receive a recommendation from the commission and shall conduct at least one (1) public hearing advertised in accordance with section 15.2-2204, Code of Virginia, except that all property owners along the residential street proposed to be accessed shall be mailed notice of the proposal and the times and places when public comment may be offered. The commission shall also conduct a duly advertised public hearing before transmitting a recommendation to the board. This provision shall not apply to home occupations established and operated in accordance with this chapter, nor shall it apply to community recreation facilities constructed to serve the residential community in which located, nor shall it apply to pump stations and similar utility appurtenances.

(b) Driveways or entrances to streets classified as minor collector, major collector, minor arterial, and major arterial shall be appropriately limited in number and width and effectively spaced so as to preserve the public investment in the traffic carrying capacity of the roadway in general accordance with the recommendations contained in the National Cooperative Highway Research Program (NCHRP) Report 348, *Access Management Guidelines for Activity Centers*. Multiple access driveways to a single development shall be discouraged on collectors and prohibited on arterials. This shall specifically include shopping center development with frontage outparcels and similar types of developments. The following standards shall apply unless a more restrictive standard applies by virtue of the roadway having been constructed as a restricted or limited access roadway.

(1) *On streets classified as minor collectors.*

a. Each lot (either existing or newly created) shall be entitled to one (1) entrance of requisite width per the standards of the Virginia Department of Transportation. Lots with greater than three hundred feet (300') of frontage on a single road shall be entitled to two (2) entrances.

b. Additional entrances or access points may be permitted by the zoning administrator, with the concurrence of the Virginia Department of Transportation, if the need for and safety of such is substantiated by a traffic impact analysis prepared in accordance with section 24.1-251(b) of this chapter which shall include full analyses of the transportation system with and without the requested entrances or access points.

(2) *On streets classified as major collectors.*

a. Each two (2) newly created abutting non-residential lots shall be entitled to one (1) entrance of requisite width per the standards of the Virginia Department of Transportation. Lots with greater than three hundred feet (300') of frontage on a single road shall be entitled to an unshared entrance which may be in addition to the shared entrance.

b. Additional entrances or access points may be permitted by the zoning administrator, with the concurrence of the Virginia Department of Transportation, if the need for and safety of such is substantiated by a traffic impact analysis prepared in accordance with section 24.1-251(b) of this chapter which shall include full analyses of the transportation system with and without the requested entrances or access points.

(3) *On streets classified as minor arterials.*

a. Each development shall be entitled to one (1) access to the street. All internal development shall be served by an internal access system which connects to the minor arterial at the single permitted access point. A second access point, which shall be a part of and directly connected to the overall internal access system may be permitted where the total frontage along the minor arterial exceeds four hundred feet (400'). For purposes of this section, subsequent construction of buildings within a development project or on outparcels of the development project, shall not constitute a separate development and shall not be entitled to access separate and apart from the parent tract.

b. Additional entrances or access points may be permitted by the board with the concurrence of the Virginia Department of Transportation and after conducting a public hearing in accordance with applicable procedures, the cost of such public hearing to be borne by the developer making the request. The need for and safety of such additional entrances shall be substantiated by a traffic impact analysis prepared in accordance with section 24.1-251(b) of this chapter. In addition it must be demonstrated by the use of recognized progression and queuing analyses or simulations that an additional entrance or access point, if permitted, will not degrade the traffic flow characteristics or the traffic carrying capacity of the street.

(4) *On streets classified as major arterials.*

a. Each development shall be entitled to one (1) access to the street. All internal development shall be served by an internal access system which connects to the major arterial at the single permitted access point. A second access point, which shall be a part of and directly connected to the overall internal access system, may be permitted where the total frontage along the major arterial exceeds six hundred feet (600'). For purposes of this section, subsequent construction of buildings within a development project or on outparcels of the development project, shall not constitute a separate development and shall not be entitled to access separate and apart from the parent tract.

b. Additional entrances or access points may be permitted by the board with the concurrence of the Virginia Department of Transportation and after conducting a public hearing in accordance with applicable procedures, the cost of such public hearing to be borne by the developer making the request. The need for and safety of such additional entrances shall be substantiated by a traffic impact analysis prepared in accordance with chapter 24.1-251(b) of this chapter. In addition it must be demonstrated by the use of recognized progression and queuing analyses or simulations that an additional entrance or access point, if permitted, will not degrade the traffic flow characteristics or the traffic carrying capacity of the street.

(5) The zoning administrator may grant exceptions to the standards contained herein when the property location or configuration precludes strict application of the standards provided, however, that reductions in the road frontage requirements shall not be greater than fifteen percent (15%).

(6) The developer shall provide and record all easements determined to be necessary to accommodate shared entrances and joint access arrangements. (See Figure II-9 in Appendix A and sample Deed of Easement in Appendix B.)

(Ord. No. 01-20(R), 10/16/01)

Sec. 24.1-253. Roadway and traffic safety management.

(a) Any development proposal, including without limitation site plans, planned development detailed plans, and subdivision development plans, submitted for consideration shall provide details, plans or notations as may be appropriate, relating to traffic safety and traffic and roadway maintenance during and after the development process. Such details, plans or notations shall include the location, size and type of all necessary traffic signals, pavement markings and regulatory, warning and guide signs, both permanent and temporary, as well as the routes and shall indicate how traffic, including motor vehicles, bicyclists, and pedestrians, will be accommodated and controlled along adjacent existing roadways during construction activities.

(b) The developer or subdivider shall be responsible for the installation of all traffic signals, pavement markings and regulatory, warning and guide signage indicated in the details, plans or notations in subsection (a) above or as otherwise determined to be necessary by the zoning administrator in consultation with the Virginia Department of Transportation.

(c) Proper installation of required traffic signals, pavement markings and regulatory, warning and guide signs shall be accomplished prior to the issuance of any certificate of occupancy for any structure within any development wherein such signals, markings or signage are, in accordance with subsection (b) above, necessary. The zoning administrator, in consultation with the Virginia Department of Transportation, may modify this requirement, including requiring the proper installation of certain regulatory and warning signs at intersections with existing roadways prior to the issuance of any building permit within the development.

Sec. 24.1-254. Construction traffic access management.

The zoning administrator shall review specifically and approve all construction entrances and the access routes to

such construction entrances. In specifying and limiting traffic access routes to such entrances or the entrances themselves, the zoning administrator shall consider all available or potential access alternatives with the objective of ensuring pedestrian, bicycle and motor vehicular safety within existing or developing residential neighborhoods or other developments characterized by relatively higher levels of pedestrian, bicycle, and vehicular activity. Construction traffic shall be deemed to include, but not be limited to, construction equipment used in site development or building activity, vehicles transporting such construction equipment or construction and building materials, and vehicles transporting persons engaged in site development, construction, or building activities.

Sec. 24.1-255. Transportation demand management.

(a) All development shall be designed and constructed in a manner which clearly considers the potential need for convenient access by and safety of alternative transportation modes, specifically pedestrian, bicycle, and transit service.

(b) Developments having or projected to have at least one thousand (1000) average daily trips as determined using actual counts or the Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition) and which front and have access to streets classified as major collector and higher, shall dedicate or reserve land for transit operations provided by bus. Where a transit route exists or is scheduled to exist within twelve (12) months, transit provisions including pull-outs and shelters may be required to be constructed as a part of plan approval. Off-street parking requirements may be reduced by five percent (5%) when transit provisions are required to be constructed.

(c) Bicycle and pedestrian accommodations shall be provided in all developments anticipated to have at least twenty-five (25) employees on any shift or five hundred (500) average daily trips. Such accommodations shall include safe, secure, and convenient pedestrian and bicycle circulation and access, and where required by article VI of this chapter, safe, secure and convenient bicycle parking facilities.

(d) Where employers adopt and certify their continued support for a Transportation Demand Management program which encourages alternative modes of transportation, such as van pooling and car pooling, bicycle and pedestrian commuting, telecommuting, transit subsidy, or other techniques, a credit may be granted by the zoning administrator of up to twenty-five percent (25%) of the required off-street parking expected to be utilized by employees. To obtain credit for bicycle and pedestrian commuting programs, employee showers and lockers must be provided. Additionally, for bicycle credits, some form of secure, safe and enclosed bicycle parking must be available. The developer shall document the commitment to Transportation Demand Management measures and submit, in writing, the Transportation Demand Management plan together with an inventory of the number of employees and the number of parking spaces for employees.

(e) The maximum credit which may be given the Transportation Demand Management programs in concert with other credits is thirty-five percent (35%) of the required off-street employee parking requirements plus ten percent (10%) of the customer or patron spaces. The identification and documentation of the space utilization shall be the responsibility of the developer.

(f) Where off-street parking credit is given, a land area sufficient to construct fifty percent (50%) of the spaces for which parking credit has been given must be reserved in case the use or orientation changes and the spaces are required.

Sec. 24.1-256. Vehicular and pedestrian access and circulation standards.

Vehicular and pedestrian access and circulation systems on a development site shall be designed in accordance with the following standards:

(a) Vehicular access to the site and circulation within the site shall be designed to promote pedestrian, bicycle and motor vehicular safety, to aid overall traffic flow, to provide for safe and efficient ingress and egress, and to minimize access points to the off-site transportation systems. On-site circulation systems, including parking areas, shall be designed to minimize headlight glare onto adjacent rights-of-way.

(b) Driveway design and placement shall be such that the entrance can absorb the maximum rate of inbound traffic during a normal weekday peak traffic period as determined in accordance with the Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition, as it may from time to time be amended) or by a traffic impact analysis prepared specifically for the development.

(1) Driveways shall be spaced at least fifty feet (50') apart. Where such spacing requirements cannot be readily achieved, joint access with an adjoining parcel shall be encouraged.

(2) The minimum distance between the property line of a parcel and the nearest edge of the nearest driveway to that property line shall be twenty-five feet (25'), except however, driveways which provide joint access to more than one parcel, or which may reasonably be expected to do so in the future, may be located on the property line or within twenty-five feet (25') of the property line.

(c) There shall be sufficient on-site queuing area to accommodate at least five percent (5%) of the total traffic volume entering and exiting the site during the peak hour of the use based on the Trip Generation Manual (Institute of Transportation Engineers, Fifth Edition, as it may from time to time be amended) without using any portion of the street right-of-way or in any other way interfering with street traffic.

(d) Bikeways shall be constructed within and between developments and along roadways in conformance with the routes and guidelines contained in the comprehensive plan.

(e) Sidewalks providing for safe and convenient internal pedestrian access between parking areas, buildings and public areas as well as access to abutting public property or shopping centers shall be provided for all development except individual single-family detached residential structures. The minimum width for sidewalks connecting to abutting property shall be six feet (6') and the sidewalk shall be located within an easement or on commonly owned property no less than eighteen feet (18') in width. Sidewalks shall have beginning and ending points providing appropriate access to sites and the ability to make connections with similar facilities on the abutting property. Developers are encouraged to extend sidewalks onto the adjacent shopping center or public site to connect with sidewalks located on those sites. Maintenance of the sidewalk shall be required and a plan for maintenance shall be submitted to and approved by the zoning administrator.

Sec. 24.1-257. Public street dedication and construction.

(a) The construction, extension and dedication of public streets within a subdivision shall conform with the subdivision ordinance.

(b) Density credits are available where a developer of a project not subject to the terms of the subdivision ordinance dedicates right-of-way or constructs public streets of one or more of the following types:

(1) Stub streets intended to provide a future interconnection with the street systems of adjoining parcels;

(2) Dedications to correct existing right-of-way width deficiencies; or

(3) Additional extensions intended to provide interconnection and coordination with the street systems of adjoining parcels.

(c) The area of right-of-way may be credited toward development density in accordance with the following:

(1) In cases where development density is controlled by a maximum number of dwelling units per acre [dwelling units per hectare] ratio, credit shall be granted for the dedicated area by including the area in the density calculation.

(2) Credits shall not be applied to any areas which may, as in the case of portions of temporary cul-de-sacs, become a part of an adjacent lot.

(3) In no case shall the above specified credits be construed to allow reductions in setback, yard, transitional area or buffer dimensions, or similar standards applicable for the zoning district in which located.

(4) Any right-of-way dedicated herein shall, by deed and recorded plat, be conveyed to the County of York or, upon approval, to the Virginia Department of Transportation. (See sample plat and deed in appendices A and B respectively).

(d) Where a stub street is to be created, it shall be so noted on the face of the subdivision plat and site plan. Once final approval is granted, the subdivision plat or site plan, or portion thereof showing a stub street, shall be recorded with the clerk of the circuit court. In addition, the notification requirements for stub streets contained in the subdivision ordinance shall be followed.

Secs. 24.1-258—24.1-259. Reserved.

DIVISION 6. SITE DESIGN STANDARDS

Sec. 24.1-260. General site design standards.

(a) No more land shall be disturbed than is reasonably necessary to provide for the desired use or development. All site plans shall clearly delineate land areas to be disturbed and those which shall remain undisturbed.

(b) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the proposed use and development. Any proposal to clear cut a property in the absence of an approved development plan shall be deemed to constitute a “forestry” operation and shall be permitted only in such districts and under such procedures as are set forth in articles 3 and 4 of this chapter or only when in accordance with the provisions of Section 10-14(f) of the York County Code.

(c) Best management practices shall be applied to all land disturbing activities regulated by this chapter.

(d) Natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), shall be protected through a conservation easement or other development restriction encompassing the area within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.

(e) Land development proposals shall be designed to minimize impervious cover consistent with the particular use proposed.

(f) New construction on existing slopes in excess of thirty percent (30%) shall be prohibited unless the zoning administrator, after reviewing a detailed soils, geology, and hydrology survey prepared in accordance with acceptable engineering standards and submitted by the applicant, determines that such construction can be accommodated without creating or exacerbating erosion, seepage, or nutrient transport problems. Such survey shall include cross-sections of existing and proposed slopes and detailed plans of drainage devices. Grading such slopes to less than thirty percent (30%) shall also be prohibited unless the zoning administrator determines that such grading is necessary to the overall development; however, in no case shall such grading be used to permit new construction which otherwise would have been prohibited.

(g) Except as exempted below, all outdoor lighting in excess of 3,000 initial lumens associated with land use and development proposals, whether new uses or changes and modifications in existing uses, shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent rights-of-way and properties and shall incorporate the use of “full cut-off” luminairies/fixtures. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixture and luminaries for such uses. High-pressure sodium or metal halide lights shall be the preferred type of exterior site lighting. The use of Mercury vapor lights shall be discouraged in any exterior lighting applications, with the exception of under-canopy lighting for gasoline pump islands, bank or other drive-thru or drive-in facilities.

The following outdoor lighting applications shall be exempt from these requirements:

(1) Construction, agricultural, emergency or holiday decorative lighting of a temporary nature.

(2) Lighting of the United States of America, Commonwealth of Virginia, or York County flags and other non-commercial flags.

(3) Security lighting controlled by sensors which provide illumination for fifteen (15) minutes or less.

(4) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the effective date of this section.

(5) The replacement of a failed or damaged luminaire which is one of a matching group serving a common function.

(6) Fixtures used for architectural or landscape accent lighting (façade, features, trees, etc.), when such lighting is aimed or directed so as to preclude light projection beyond the immediate objects intended to be illuminated. If the surrounding area contains residential uses that could be adversely impacted by such lighting, the Zoning Administrator may require that such lighting be extinguished between the hours of midnight and dawn.

(7) Streetlights illuminating public rights-of-way, or private streets which the zoning administrator determines to be consistent in illumination characteristics with those allowed and specified under the board of supervisors' street light installation policy.

In addition to the above-noted exemptions, the Zoning Administrator may approve a modification of the full cut-off luminaire requirements in the following circumstances:

- Upon finding that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree; or

- Upon finding that the outdoor luminaire or system of outdoor luminairies required for a baseball, softball, football, soccer or other athletic field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use.

- Upon a finding that the proposed luminaire is a decorative colonial-style "cut-off optics" fixture in which the lamp is fully recessed into the upper housing.

For the purposes of administering these provisions, lamps of less than or equal to the following rated wattages shall be deemed to emit 3,000 or less initial lumens and, therefore, shall be exempt from the full cut-off requirement:

• Incandescent lamp:	160 watts
• Quartz halogen lamp:	160 watts
• Florescent lamp:	35 watts
• Mercury vapor lamp:	75 watts
• Metal halide lamp:	40 watts
• High-pressure sodium lamp:	45 watts
• Low-pressure sodium lamp:	25 watts

Lamps having greater wattages than those listed above also may be exempted by the zoning administrator upon presentation of documentation from the lamp manufacturer, or other source deemed appropriate by the zoning administrator, that the lamp emits 3,000 or less initial lumens.

Unless specifically authorized by the zoning administrator or specifically authorized by the board of supervisors in a special use permit approval action, site lighting shall be designed to limit illumination intensity to not more than 0.5 footcandles at all perimeter property lines abutting non-residential property and not more than 0.1 footcandles when abutting residential property.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-22(R), 10/20/09)

Sec. 24.1-261. Public service facility standards.

(a) *Refuse and recyclables collection*. Dumpsters, or an alternate method of collection for recyclables and for nonrecyclable refuse approved by the zoning administrator, shall be required for mobile home parks and

for multi-family, commercial and industrial developments. The following standards shall apply:

(1) Dumpsters or other approved collection receptacles shall be located on a site so that service vehicles will have convenient and unobstructed access to them. The location shall be such that encroachment by service vehicles upon bicycle and pedestrian ways, parking spaces, or vehicular circulation drives will be minimized. Dumpsters shall not be located closer than fifty feet (50') to any residential structure nor closer than twenty feet (20') to any non-residential structure.

(2) Dumpsters or other approved collection receptacles shall be screened from both on-site and off-site views by wooden or masonry fencing, supplemented by landscaping. Building walls may serve as part of the required screening. The enclosure shall be gated or otherwise configured to ensure that the dumpster is not visible from any adjoining public rights-of-way, adjoining properties or from any areas on the site which are normally accessible by residents, customers or the general public.

(3) Where dumpsters are to be utilized, dumpster pads, constructed in accordance with all applicable health department standards for construction and drainage, shall be provided.

(b) *Emergency services*. The following design standards are intended to ensure that emergency services can be delivered effectively and efficiently should the need arise:

(1) All buildings, and all portions thereof, on a site shall be readily accessible to emergency vehicles and apparatus. Where two or more principal buildings are proposed on the same parcel, the distance between any two such buildings shall be sufficient to ensure convenient emergency access and to comply with all applicable fire separation standards prescribed by the Uniform Virginia Statewide Building Code. Circulation routes, driveways, parking lot aisles and other vehicular circulation areas shall be designed and arranged so as to provide for convenient access and operation of emergency services apparatus. Permanent obstruction or closing of existing access routes shall require specific approval of the fire chief prior to being authorized.

(2) Any single-family detached residential structure constructed after the date of adoption of this subsection and located more than 150 feet from the edge of pavement of a public street or highway shall be subject to the following emergency access and site design standards:

a. The structure shall be served by an access drive not less than twelve feet (12') in width and capable of supporting fire and rescue vehicles and apparatus. Such driveway shall be bordered by two-foot (2') wide compacted shoulders. Such shoulders need not be constructed of the same material as the driveway but shall be sufficient to ensure the stability of the driveway when it is traversed by fire and rescue apparatus and vehicles.

b. The access drive shall be an all-weather surface (concrete, asphalt, gravel, or other approved material) capable of supporting the weight of large fire and rescue apparatus up to 80,000 pounds (gvw).

c. The access drive shall be maintained with an unobstructed horizontal clearance of sixteen feet (16') and unobstructed vertical clearance of thirteen feet six inches (13'6").

d. The access drive shall extend to at least the front of the building or one side (as determined by the Department of Fire and Life Safety). On properties where the structure has a floor area in excess of 4,500 square feet or where the height of the ridgeline or highest part of the roof exceeds thirty-five feet (35') the access drive shall include an apparatus parking/operations area pad at least twenty feet (20') in width. The exact location and length shall be determined during the site layout plan review process. Turnarounds of a size and configuration necessary to accommodate the apparatus likely to respond to an incident, as determined by the Department of Fire and Life Safety, shall be required where the access drive exceeds two hundred feet (200') in length and may also be required for shorter access drives based on the site layout plan review and any unique site characteristics.

e. When the structure has a floor area in excess of 4,500 square feet or where the height of the ridgeline or highest part of the roof exceeds thirty-five feet, the site shall be designed such that the entire perimeter of the structure shall be within 150' of the access drive.

f. Where fire hydrants are installed along access drives, turnouts shall be installed at each hydrant location. Turnouts shall be forty feet (40') in length (twenty feet (20') on either side of the hydrant) and the combined width of the driveway and turnout shall be a minimum of twenty feet (20').

g. The intersection of the access drive and the public street to which it connects shall be designed with a minimum turning radius of thirty-three feet (33') (taking into consideration the entire width of the roadway) unless otherwise approved by the Department of Fire and Life Safety.

Building plans and a site layout plan (both to scale) shall be submitted for review and approval by the Department of Fire and Life Safety to ensure appropriate accessibility around the structure for firefighting/rescue operations by fire and rescue personnel and apparatus and vehicles where appropriate. The site layout plan shall include a cross-section and description of construction materials and methods for the proposed driveway.

(3) An adequate water supply for firefighting must be ensured through compliance with the provisions of the county's water construction standards.

(Ord. No. 06-19(R), 7/18/06; Ord. No. 10-1(R), 1/19/10; Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-262. Utilities.

The site design standards for utilities and utility facilities are as follows:

(a) All on-site utility facilities including but not limited to wires, cables, pipes, conduits and appurtenant equipment, carrying or used in connection with the furnishing of electric, telephone, telegraph, cable television or similar service to a development subject to the provisions of this chapter shall be placed underground except, however, the following shall be permitted above ground:

(1) Electric transmission lines and facilities in excess of fifty (50) kilovolts;

(2) Equipment such as electric distribution transformers, switch gear, meter pedestals, telephone pedestals, CATV pedestals and power supplies, outdoor lighting poles or standards, radio antennae, traffic control devices, and associated equipment, which is, under accepted utility practices, normally installed above ground;

(3) Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises;

(4) Temporary aboveground facilities required in conjunction with an authorized construction project.

(b) Existing utilities located above ground may be maintained or repaired provided that such repair does not involve relocation or expansion.

(c) Whenever any existing on-site above ground utilities require relocation for any reason, they shall be removed and placed underground. In the event a development project impacts existing off-site above ground utilities and necessitates their relocation onto the development site, such utilities shall be placed underground.

(d) All utilities shall be placed within easements or public street rights-of-way in accordance with "Typical Curb and Gutter Details CGD-1, CGD-2, CGD-3, or CGD-4" as published by the department of environmental and development services or as may be otherwise approved by the zoning administrator.

(e) Sewage pump and lift stations and communication switching and relay facilities larger than one-hundred fifty (150) square feet in building area shall, at a minimum, be surrounded by a landscaped buffer no less than twenty-five feet (25') in width and landscaped in accordance with the provisions of section 24-242 of this chapter.

(f) Utility equipment installed at ground level, including transformers, pedestals, switch gear and other similar types of equipment which is visible from a public right-of-way shall be screened from view by appropriate evergreen shrubs planted in accordance with a landscape plan approved by the zoning administrator.

(Ord. No. O98-18, 10/7/98)

Sec. 24.1-263. Easements.

The developer shall provide and record all easements determined to be necessary to accommodate required

drainage or utilities structures and facilities. (See Figure II-9 in Appendix A and sample Deed of Easement in Appendix B.)

Secs. 24.1-264—24.1-269. Reserved.

DIVISION 7. ACCESSORY USES

Sec. 24.1-270. Accessory uses permitted.

Unless otherwise provided herein, accessory uses and structures shall be permitted in any zoning district, but only in connection with, incidental to, and on the same lot with a principal use or structure which is lawfully permitted within such district.

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. In the case of an existing lawful nonconforming single-family detached residence located in a non-residential district, the normal and customary accessory uses listed below shall, unless otherwise indicated be deemed permitted as a matter of right, subject to all respective performance standards. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (q) shall be deemed not allowed as residential accessory uses:

(a) Antenna structures including guy wires for radio, television, and other noncommercial communication purposes subject to the following provisions:

(1) All locational standards and setbacks applicable to accessory structures shall be observed. Guy wires shall not be permitted in the front setback areas.

(2) Antennas in excess of the height requirements specified in division 3 of this article shall be permitted only by the board after conducting a duly advertised public hearing. The measurement of height shall include both the antenna, any ancillary antennae, and any support structure.

(3) The above provisions notwithstanding, dish antennas shall be subject to the following standards:

a. Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.

b. In residential districts, dish antennae larger than twenty-four inches (24") in diameter shall be permitted in rear yards only. No part of a dish antenna shall be closer than five feet (5') to any lot line. Dish antennae larger than twenty-four inches (24") in diameter shall not be permitted on the roofs of residential structures or structures accessory thereto.

c. All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.

d. The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board, in accordance with the procedures established in article I, for authorization, by use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.

(aa) Accessory apartments in the RC, RR, R33, R20 and R13 Districts, subject to the supplementary requirements set forth in Section No. 24.1-407, Standards for Accessory Apartments, of this chapter. Accessory

apartments shall not be permitted in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.

(b) Barns or other structures that are customarily incidental to a legally established and permitted agricultural use or when used in conjunction with the keeping of horses or other livestock as an accessory use as permitted in the residential districts.

(c) Carports, garages, utility sheds, and similar storage facilities customarily associated with residential living. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a residential property for loading or unloading. Such units shall not be placed in a front yard area, except on a driveway and at least twenty (20) feet from the front property line. When placed in a side or rear yard, the boxes shall be located at least five (5) feet from any property line. For the purposes of this section, temporary placement shall mean no more than sixteen (16) consecutive days at a time, and with at least one (1) year between successive placements. Not more than one (1) unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the sixteen (16) day limit shall apply to all cumulatively.

The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding sixteen (16) days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

(d) Child's playhouses, without plumbing.

(dd) Home gardens, orchards, vineyards, riparian shellfish gardening when in accordance with the terms of Virginia Administrative Code section 4VAC20-336 General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities, and similar pursuits when maintained and cared for by the occupants of the property without the assistance or employment of non-resident employees. . Nothing in this subsection shall be construed to prohibit the sharing of such produce with friends or neighbors or the sale of the produce, either on or off the premises. When sales are conducted on the property the provisions of subjection (k) below shall be observed. Nothing in this section shall be construed to limit the amount of land area on a residential property that is planted and cultivated for vegetable crops, orchards or vineyards.

(e) Raising and keeping of household pets which are housed within the principal structure.

(f) Doghouses, pens, hutches, or similar structures or enclosures, that are not within the principal structure and which are intended for the housing and confinement of household pets. The keeping of more than four (4) canines or felines over the age of six (6) months in such a structure or enclosure shall be deemed a private kennel and shall be permitted Section No. 24.1-417, Standards for Private Kennels, of this chapter. Special Use Permit approval shall be required for any private kennel proposed in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.

(ff) Keeping of horses or other livestock for personal but not commercial purposes, shall be permitted as a matter of right in the RC and RR Districts and by Special Use Permit in the R33, R20 and R13 Districts, subject in both circumstances to the Performance Standards set forth in Section No. 24.1-414 of this Chapter. Special Use Permit approval shall be required for any horsekeeping or livestock keeping proposed in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.

(g) Beekeeping provided no beehive is closer than fifty feet (50') to any dwelling, school or church establishment and that the owner provides a supply of water for the bees within fifty feet (50') of the hive. Nothing in this subsection shall be construed to prohibit the sharing of honey with friends or its sale, either on or off the premises.

(gg) Backyard chicken-keeping for personal but not commercial purposes shall be permitted as a matter of right in the RC, RR, R33, R20, R13 and WCI Districts, subject in both circumstances to the Performance Standards set forth in Section No. 24.-414.1 of this Chapter. Nothing in this subsection shall be construed to prohibit the sharing of eggs with friends or neighbors or sale of eggs, either on or off the prem-

ises.

(h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:

(1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;

(2) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, provided however, that when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, motor homes and recreational vehicles may be used for temporary residential occupancy during the time of reconstruction/repair of the principal dwelling. The authorization for such temporary occupancy shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

(3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

The provisions of this subsection shall not be deemed to authorize take-off or landing operations from residential properties for aircraft of any type, including special light-sport aircraft, experimental light-sport aircraft, or ultra-light aircraft, as defined by the Federal Aviation Administration (FAA).

(hh) Home occupations in accordance with the terms and requirements set forth in Division 8 of this Article.

(i) Outdoor recreation facilities such as swimming pools, tennis courts, basketball courts, skateboard ramps, private boat docks, piers or boat houses, provided that the use of such facilities shall be limited to the occupants of the premises and guests for whom no admission or membership fees are charged.

(j) Fences or walls in single-family residential districts provided that:

(1) fences or walls located in rear yards shall not exceed eight feet (8') in height;

(2) fences or walls located in side yards shall not exceed six feet (6') in height;

(3) fences or walls located in front yards shall not exceed four feet (4') in height;

(4) fences or walls located on corner lots and adjacent to street/or driveway intersections shall be subject to the visibility standards established in section 24.1-220;

(5) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter;

(6) In the case of lots having multiple street frontages which by definition would be considered "front yards," the Zoning Administrator may authorize the installation of fences up to six (6) feet in height, rather than the 4-foot limit specified above, to provide privacy for the side and rear yard areas of the dwelling based on its orientation on the lot;

(7) the Zoning Administrator may authorize front and side yard fence heights to be increased to a maximum of eight (8) feet when it is determined that such additional height is necessary to provide screening or buffering of a residential property from an adjacent non-residential use;

(8) when a fence is designed/constructed such that the rails, boards, wire mesh or other non-structural coverings are attached to only one side of the structural supports (i.e., posts, cross rails, etc.), that side shall be considered the "finished" side and shall face outward towards surrounding properties and rights-of-ways. The Zoning Administrator may grant an exception to this requirement upon finding that such orientation is impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.

(9) No barbed wire or electrified or similar type fences shall be permitted except in conjunction with a bona fide agricultural operation.

(k) On-premises roadside sales of produce provided that: operations shall be limited to no more than ninety (90) days per year; shall be solely for the sale of produce grown or raised on the premises; shall be limited to one temporary on-premises free-standing sign not exceeding six (6) square feet in area; and, shall be allowed only on property where the parking demand can be met on the subject site (i.e., no on-street customer parking).

(l) Yard or garage sales subject to the following provisions:

(1) Items offered for sale shall be limited to those which are owned by an occupant of the premises or other participants authorized by this section and which are normally and customarily used or kept on a residential premises. Such items shall not have been specifically purchased or crafted for resale;

(2) Participation in such sale shall be limited to the occupant of the premises and not more than four (4) non-occupants. For the purpose of this section, participation shall be construed to mean the offering for sale of items owned by an occupant or participating non-occupant, whether or not that individual is physically present on the premises during the conduct of such sale;

(3) Such sales shall be limited to two (2) in any given calendar year per lot. The duration of any single sale shall not exceed three (3) consecutive days.

(m) Craft sales or shows subject to the following provisions:

(1) Items offered for sale shall be limited to those which have been made or crafted by the participants as a hobby or avocation as distinguished from items which are made in the conduct of a home occupation;

(2) Participation in such sales or shows shall be limited to an occupant of the premises and not more than four (4) non-occupants. For the purposes of this section, participation shall be construed to mean the offering for sale of items made or crafted by an occupant or participating non-occupant, whether or not that individual is physically present on the premises during the conduct of such sale or show;

(3) Not more than one (1) such sale or show event shall be conducted on a premises in any given calendar year. For the purposes of this section, the duration of any sale or show event shall be limited to six (6) days within a period of ten (10) consecutive days;

(4) Such sales and shows may be conducted only upon authorization by the zoning administrator of a temporary permit subsequent to application and payment of a five dollar ($5.00) nonrefundable processing fee by an occupant of the premises upon which such sale or show is proposed to be conducted. The zoning administrator shall make a determination with respect to approval or denial of applications within ten (10) working days of submission and shall consider the following:

a. the proposed location of the sale or show and the probable impact on adjacent land uses;

b. the ability of the structure in which such sale will be conducted to accommodate safely the number of persons likely to patronize such event;

c. the ability of the streets in the immediate vicinity of such residential property to accommodate adequately and safely the traffic and parking demand anticipated to be associated with such event without disruption of normal traffic circulation and emergency access needs.

(5) In the event the zoning administrator determines that the conduct of such craft sale or show at the proposed location would adversely affect the surrounding land uses because of the disruption to the normal and essential traffic circulation needs of the immediate vicinity, or the safety and welfare of participants, patrons, neighbors, or the general public, the application for temporary permit shall be denied. No application for a temporary permit shall be deemed to have been received for processing unless accompanied by a nonrefundable processing fee in the amount of five dollars ($5.00).

(n) Small wind energy systems subject to the standards set forth in section Nos. 24.1-231 and 274 of this chapter and provided that roof-mounted systems shall not be permitted in conjunction with single-family detached dwellings.

(o) Pool house when in conjunction with an accessory permanently constructed in-ground swimming pool. Such structures shall not be considered to be an accessory apartment and shall not be used for residential purposes.

(p) Temporary family health care structures for use by a caregiver in providing care for a mentally or physically impaired person on property that is zoned for single-family residential use and that owned or occupied by the caregiver as his residence, subject to the following performance standards.

(1) occupancy of the structure shall be by a mentally or physically impaired person who, for the purposes of this section, shall be deemed to be a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia and as certified in writing by a physician licensed by the Commonwealth of Virginia;

(2) a maximum of one (1) resident occupant, who shall be the mentally or physically impaired person, shall be permitted; or, in the case of a married couple, two (2) occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in Section 63.2-2200 of the Code of Virginia, as certified by a physician licensed in the Commonwealth.

(3) the structure shall not exceed 300 square feet in gross floor area;

(4) the structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code;

(5) placement on a permanent foundation shall not be required or permitted;

(6) only one such structure shall be permitted on a lot;

(7) the structure shall comply with all setback requirements applicable to principal structures in the district in which located;

(8) such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health;

(9) no signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property;

(10) prior to placement of such a structure on a residential property, the property owner shall obtain a permit, available from the office of the zoning administrator; the zoning administrator shall require submission of a sketch plan and such other documentation as deemed necessary to ensure compliance with the standards set forth herein;

(11) any temporary family health care structure installed pursuant to this section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance of a caregiver;

(12) for the purposes of this section, the term caregiver means an adult who provides care for a mentally or physically impaired person within the Commonwealth and the caregiver shall be either related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for who care is being provided; and,

(13) on an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant zoning and code enforcement personnel the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the inspection personnel.

(q) Other uses and structures of a similar nature which are customarily associated with and incidental to residential uses as determined by the zoning administrator.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-2, 3/16/10; Ord. No. 10-24, 12/21/10; Ord. No 11-15(R), 11/16/11; Ord. No. 13-11, 7/16/13; Ord. No. 14-20(R), 10/21/14)

Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.

The following accessory uses shall be permitted in conjunction with commercial and industrial uses. No accessory use, activity, or structure, except fences, shall be constructed until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (l) shall be deemed not allowed as commercial or industrial accessory uses:

(a) Fences or walls provided that:

(1) fences or walls located in side or rear yards shall not exceed eight feet (8') in height;

(2) fences or walls located in front yards shall not exceed six feet (6') in height provided that corner visibility standards, as established in section 24.1-220 shall be observed;

(3) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter and, furthermore, the zoning administrator may authorize the installation of fences exceeding the above height limits when it is determined that such additional fence height would be appropriate for providing screening and buffering benefits to adjoining properties; and

(4) when a fence is designed/constructed such that the rails, boards, wire mesh or other non-structural coverings are attached to only one side of the structural supports (i.e., posts, cross rails, etc.), that side shall be considered the “finished” side and shall face any adjacent public right-of-way or residential zoning districts. The Zoning Administrator may grant an exception to this requirement upon finding that such orientation is impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.

(b) Uses intended specifically for the use and benefit of the employees and families or patrons of the principal use such as snack bars, cafeterias, off-street parking spaces, health and fitness, and recreation facilities or similar uses.

(c) Living quarters for a proprietor or manager and family located in the same building as the place of occupation, or living quarters for a watchman or custodian of an industrial establishment.

(d) Incidental repair, installation or assembly facilities for products or equipment used or sold in the operation of the principal use, unless specifically prohibited or otherwise regulated under the applicable district regulations.

(e) Incidental storage facilities for goods and materials used or offered for retail sale on the premises.

(f) Motor vehicle fuel dispensing pumps, pump islands, or service kiosks installed for and utilized exclusively by vehicles owned or operated by commercial or industrial establishments to which they are accessory.

(g) Antenna structures for radio communication purposes or other information or data transfer purposes associated with a business or industrial operation. Antenna structures in excess of one hundred feet (100') in height (including both the supporting structure and the antenna) shall be permitted only by the board after conducting a duly advertised public hearing.

(h) Dish antennae shall be subject to the following provisions:

(1) Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.

(2) Dish antennae shall be permitted in rear yards and on roofs. No part of a dish antenna shall be closer than ten feet (10') to any lot line. When located on a roof, such antenna shall be set back from all edges of the roof a distance of at least two (2) times its height.

(3) All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.

(4) The above dimensional and location standards notwithstanding, where the zoning administrator

determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board in accordance with the procedures established in article I, for authorization by special use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.

(5) The above provisions shall not apply to any dish antenna used by a cable company possessing a valid franchise issued by the board.

(i) Incidental retail sales of products produced or refined on the premises.

(j) Incidental monitoring equipment or devices designed to monitor general conditions or specific processes or events or both.

(k) Small wind energy systems subject to the standards set forth in section nos. 24.1-231 and 274 of this chapter.

(l) Parking or storage of heavy trucks and cargo or utility trailers provided that the following requirements are observed:

(1) such vehicles may be parked in any required parking spaces located on the site, provided they can fit within a single standard-dimension parking space, as set forth in Section 24.1-607, and that the site remains compliant with the requirements of Section 24.1-604(c) ;

(2) vehicles that cannot fit in a standard-dimension parking space must be accommodated on a properly paved and located surface that does not constitute any of the required parking space, drive aisles, or fire lanes on the site.

(3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

(4) any signage attached or affixed in any manner to the trailer must be capable of remaining in place and being legal when the trailer is driven on public roads;

(m) Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses, as determined by the zoning administrator.

(Ord. No. O98-18, 10/7/98)(Ord. No. 01-20(R), 10/16/01; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-2, 3/16/10; Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-273. Location, height, and size requirements.

Except where other provisions of this chapter are more restrictive, the following requirements shall apply to the location, height, and size of all accessory uses or structures in all districts, including the planned development district unless the approving ordinance for such district (project) has established alternative or supplementary requirements:

(a) With the exception of statues, arbors, trellises, flagpoles, fences, walls or roadside stands, accessory buildings or structures shall not be located closer to the front lot line than the principal building façade provided, however, that where the setback of the principal building exceeds fifty feet (50'), accessory buildings and structures shall be subject only to a fifty-foot (50') minimum setback requirement.

(b) Accessory buildings or structures located closer to the front lot line than the rear of the principal building shall observe the side yard requirements applicable to the principal building. When the rear façade of the principal building has more than one plane, the accessory building side yard requirements shall be determined based on accessory building location in relation to those rear facades as depicted in Figure II-7.1, Appendix A.

(c) An accessory building or structure attached to a principal building by any wall or roof construction, or located within ten feet (10') of any principal building, shall be considered a part of the principal building and shall observe all yard regulations applicable thereto. Setback and spacing requirements for accessory in-ground swimming pools shall be measured to the edge of the water. Setback and spacing requirements for above-ground pools shall be measured to the outer edge of the pool wall

or any above-ground decking surrounding the pool.

(d) Accessory buildings and structures shall observe minimum side and rear yard setbacks of five feet (5') except where the provisions of this chapter specifically require otherwise and provided, however:

(1) There shall be no side and rear yard requirements for fences or walls; and

(2) There shall be no rear yard requirement for docks, piers or boathouses; however, a setback of ten feet (10') from side lot lines extended to mean low water shall be observed. All such uses shall be subject to applicable permitting requirements of the Virginia Marine Resource Commission and United States Army Corps of Engineers.

(e) Roadside stands shall be set back at least twenty feet (20') from any road right-of-way.

(f) The above listed requirements shall not apply to the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment; however, no such trailer, vehicle, or equipment shall be stored within twenty feet (20') of any public road right-of-way, unless in a driveway.

(g) Except as authorized by section 24.1-231 or section 24.1-274 of this chapter, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20') and shall observe a minimum side and rear yard setback of ten (10) feet rather than the normally applicable five (5) feet.

(h) With the exception of barns and similar structures associated with a bona fide agricultural/farming operation, the building footprint (i.e., lot coverage) of a structure accessory to a residential use shall not exceed the area of the building footprint of the principal residential structure.

(i) *Accessory structures shall be located on the same lot as the principal structure. Where adjoining lots* are under single ownership and an accessory structure is proposed to be located so as to straddle an interior property line, or where the accessory and principal structures would be on different lots, the owner shall be responsible for preparing and recording, prior to issuance of a building permit, a survey plat to vacate the interior lot line(s) as necessary to ensure the principal and accessory structures are located on the same lot.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-2, 3/16/10; Ord. No. 10-24, 12/21/10)

Sec. 24.1-274. Special standards applicable to accessory small wind energy systems

The following requirements and performance standards shall apply to all accessory small wind energy systems:

(a) Small wind energy systems meeting the height limitations set forth in section 24.1-231(a)(1) shall be subject to administrative review and approval by the zoning administrator, and shall be approved if meeting all requirements of this section. Any small wind energy system in excess of those height allowances shall be subject to review and approval pursuant to the special use permit procedures and requirements set forth in section 24.1-115 of this chapter.

(b) Every application for a small wind energy system shall be accompanied by scaled elevation drawings of the proposed system, including colors and specifications, and certification from a licensed professional engineer that the support structure of the system will have the structural integrity to carry the weight and wind loads of the small wind energy system.

(c) Small wind energy systems shall not be permitted in the YVA zoning district.

(d) The height of any small wind energy system shall be measured from ground level to the highest point of the turbine rotor at its highest elevation.

(e) The minimum setback of any small wind energy system shall be equal to the height of the system. Guy wire anchors shall not be permitted in any front or side yard.

(f) The minimum distance between the ground and any protruding blades utilized on a small wind energy system, as measured at the lowest point of the arc of the blades, shall be ten feet (10').

(g) Unless otherwise provided for by the Board of Supervisors through the approval of a special use permit, small wind energy systems shall be permitted only in a rear yard.

(h) Other than safety and warning signs, no signage, flags, streamers, or decorative items shall be attached or affixed to any component of the system.

(i) Turbines and support structures shall be predominantly white, off-white, gray, or a similar non-obtrusive color.

(j) No portion of a small wind energy system shall be illuminated unless required by the Federal Aviation Administration.

(k) All small wind energy systems and the construction and installation thereof shall conform to the applicable requirements of the Uniform Statewide Building Code.

(l) Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(m) Small wind energy systems shall be operated in compliance with the provisions of Section 16-19, Unnecessary or excessive noise, of the York County Code.

(n) The applicant shall provide evidence that the proposed height of the small wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system.

(o) The applicant shall provide evidence in writing that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid.

(p) In order to prevent unauthorized climbing, the supporting tower shall be enclosed with a six-foot tall privacy fence or the base of the tower shall not be climbable for a distance of ten (10) feet.

(q) The small wind energy system's generators and alternators shall be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Code of Federal Regulations, Part 15 and subsequent revisions governing said emissions.

(r) Any small wind energy system found to be unsafe by the building official shall be repaired by the owner to meet applicable federal, state, and local safety standards or removed within six months. If use of any small wind energy system ceases for a continuous period of one year, the County shall notify the owner of the property on which the system is located by certified mail that a removal notice is forthcoming. Within thirty (30) days of such notification, the landowner shall either provide evidence that the system has been in operation or set forth reasons for the operational difficulty and the corrective measures being taken or proposed to restore operability. The landowner shall either take corrective action or dismantle and remove the system within six (6) months thereafter.

(s) The installation and design of the system shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI).

(Ord. No. 10-2, 3/16/10)

Secs. 24.1-275—24.1-279. Reserved.

DIVISION 8. HOME OCCUPATIONS

Sec. 24.1-280. Home occupations permitted.

Home occupations, as defined in section 24.1-104, shall be permitted in conjunction with any residential use if in conformance with the following provisions. Should the zoning administrator determine that a specific use or activity proposed for operation as a home occupation is not materially similar to those uses and activities listed herein, the matter shall be resolved in accordance with the procedures outlined in section 24.1-302 of this chapter.

Sec. 24.1-281. General requirements for home occupations.

All home occupations shall be subject to the following provisions unless excepted by the board in accordance with the provisions of section 24.1-283:

(a) The owner/operator and business license holder of the home occupation shall reside on the premises. No person other than individuals residing on the premises shall be engaged on the premises in such operation unless otherwise authorized under section 24.1-283(e).

(b) The home occupation shall be clearly incidental and subordinate to the residential use of the property. The use may not exceed four hundred (400) square feet or twenty-five percent (25%) of the floor area of the residence, whichever shall be less, unless a greater area is deemed appropriate and is authorized by the Board of Supervisors in conjunction with consideration of a special use permit application for a home occupation.

(c) There shall be no change in the outside appearance of the building or premises or other evidence of the conduct of such home occupation visible from the street or adjacent properties. Signs and outdoor storage are not permitted.

(d) There shall be no on-premises sales of goods or materials to the general public or on-site customer or client contact except as may be authorized by special use permit in accordance with the standards established in section 24.1-283.

(e) Such home occupation shall not generate traffic, parking, sewerage or water use in excess of that which is normal in the residential neighborhood.

(f) No mechanical or electrical equipment or flammable or toxic substances shall be utilized other than that which would customarily be utilized in the home in association with a hobby or avocation not conducted for gain or profit.

(g) Any demand for parking generated by the conduct of such home occupation which is in addition to the spaces required for the residential use shall be accommodated off the street in a suitably located and surfaced space. Parking must be ten feet (10') from any property line and where three (3) or more spaces are required they shall be effectively screened and buffered by landscaping from view of adjacent residential properties and the home occupation shall be authorized only by issuance of a special use permit by the board. In its approval action, the Board will specify the maximum parking limits associated with the home occupation.

(h) The occupation or activity shall not require the use of machinery or equipment that creates noise, odor, smoke, dust or glare or is dangerous or otherwise detrimental to persons residing in the home or on adjacent property. Commercial vehicles must be kept in a garage or an enclosed and screened storage yard.

(i) No equipment or process used as a part of the occupation or activity shall disrupt residents of nearby dwellings.

(j) No heavy truck or vehicle or piece of equipment having a gross rated carrying capacity of more than one (1) ton gross weight shall be parked or stored on or operated from the site in connection with a home occupation unless such vehicle or equipment has been specifically authorized in conjunction with a use permit authorizing a small contracting business.

(Ord. No. O98-18, 10/7/98; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-282. Home occupations permitted as a matter of right.

(a) Permitted home occupations in all residential districts shall include the following:

(1) Artists and sculptors.

(2) Authors and composers.

(3) Dressmakers, seamstresses, tailors.

(4) Home crafts such as model making, rug weaving, cabinet making, furniture refinishing, or ceramics.

(5) Office facility of a member of the clergy.

(6) Office facility of a resident salesperson, sales representative or manufacturer's representative.

(7) Home office facility for resident accountants, architects, artists, photographers, brokers, computer programmers, consultants, counselors, dentists, physicians, engineers, lawyers, insurance agents, real estate agents or similar professionals provided, however, that clients or patients may not be seen at the home office facility.

(8) Telephone answering service.

(b) Permitted home occupations which may only be conducted in the RC, RR, R33, R20, and R13 districts include the following:

(1) Photography studios.

(2) Day care or babysitters for not more than six (6) children, other than those of the provider, at any single time or in any 24-hour period.

(3) Tutoring, music or voice lessons or similar services for not more than four (4) persons other than the family members of the provider at any single time.

(4) Other activities and uses which the zoning administrator determines can be operated in complete accordance with section 24.1-281 of this chapter and which are not otherwise regulated or prohibited by this chapter or any other provision of law.

The activities specifically authorized under this subsection shall be permitted to have on-site client contact notwithstanding the provisions of Section 24.1-281 to the contrary.

(Ord. No. O98-18, 10/7/98; Ord. No. 05-13(R), 5/17/05; Ord. No. 14-12, 6/17/14)

Sec. 24.1-283. Home occupations permitted by special use permit.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

(a) Home occupations permitted under section 24.1-282 which generate a parking demand for three (3) or more parking spaces, and those occupations permitted under section 24.1-282(b) in residential districts other than those specified.

(b) Home occupations with on-premises retail sales, or personal services, or customer/client contact.

(1) Uses which may be authorized under this section shall include barber and beauty shops, antique shops, bicycle rental, rental of rooms for nontransient use, day care for more than six (6) children, in-home professional offices with customer or client contact, firearms sales, and other materially similar activities and land uses involving on-premises retail sales, customer contact, and personal services. These provisions shall also apply to catering operations conducted in accordance with section 29.5 of the Rules and Regulations of the Board of Health of the Commonwealth of Virginia provided, however, that food preparation that is conducted from the structure's standard residential kitchen for off-premises sale and consumption and that does not involve any on-site customer contact or non-resident employees shall not be deemed to

require a special use permit.

(2) All public contact related to such use shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday, unless otherwise specified by the board.

(3) Off-street parking shall be provided in accordance with the applicable standards established in article VI for business and commercial uses. Such spaces shall be in addition to those otherwise required for the residential use of the property, and shall be no less than ten feet (10') from any property line, unless on an existing driveway, and shall be effectively screened from view of adjacent properties and street rights-of-way by landscaping supplemented, if necessary, by fencing.

(4) The type and extent of items to be displayed, stored or sold, or personal services to be offered on the premises shall be specifically stipulated by the board in authorizing any such use permit. In no case shall the area devoted to sales, storage, display or conduct of such home occupation exceed twenty-five percent (25%) of the floor area of the residence or such smaller area as may be stipulated by the board.

(5) Such use shall comply with all applicable requirements for home occupations as established in section 24.1-281 of this chapter.

(c) Small contracting businesses operated as home occupations in the RC, RR and WCI district.

(1) For the purpose of this section, small contracting businesses shall be deemed to include businesses engaged in construction and repair of buildings; installation and servicing of heating, cooling and electrical equipment, flooring, painting, plumbing, roofing and tiling; landscaping; and other such uses deemed by the zoning administrator to be similar in terms of type, scale and impact. This section shall not be construed to necessitate a use permit for offices of such businesses as authorized and conducted in accordance with the provisions established in sections 24.1-281 and 24.1-282 nor shall this section be construed to provide opportunities for business operations which involve on-site manufacturing of products or materials utilized in the conduct of such business.

(2) All structures, parking and loading areas, and storage areas associated with such use shall be located at least one hundred feet (100') from any lot line. Such setback and buffer area shall be landscaped and fenced in order to provide immediately a Type 50 transitional buffer.

(3) Not more than two (2) vehicles and pieces of equipment associated with the operation of a business shall be operated from the site or stored there overnight, unless a greater number is deemed appropriate and is authorized by the board of supervisors in conjunction with consideration of a special use permit application. Small transportable equipment including lawn mowers; chain saws; power hand tools; table, band or radial arm saws; and similar items shall not be included in such a determination.

(4) Unless otherwise stipulated by the board in granting a special use permit, the areas covered by all structures used primarily in connection with such uses shall not exceed a total of one thousand five hundred (1,500) square feet.

(5) Unless otherwise stipulated by the board in granting a special use permit, the area covered by any outdoor storage associated with such use shall not exceed a total of one thousand (1,000) square feet.

(6) All parking, loading and storage associated with such use shall be screened effectively from view from adjacent properties by landscaping and appropriate wooden or masonry fencing materials.

(7) The board shall find and determine that the proposed small contracting business is not likely to generate traffic, including commercial delivery vehicles, in greater volume than would normally be expected in the district in which it is located.

(8) The board shall find and determine that the proposed small contracting business is not likely to create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in

the district in which it is located.

(d) Docking workboats and off-loading seafood as a home occupation in RR and RC districts.

(1) Such uses may be authorized only on property which is classified RC or RR. The docking of workboats, off-loading of seafood, and the conduct of a waterman's operation shall be limited to occupants of the premises who are engaged in commercial fishing or the harvesting of seafood from open waters using traditional methods such as lines, nets, crab-pots, tonging or dredging. Uses which involve aquaculture methodologies including but not limited to the propagation, rearing, enhancement and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments pursuant to a license for on-bottom shellfish aquaculture from the Virginia Marine Resources Commission shall not be eligible for consideration under these provisions. Such uses shall, for the purposes of this chapter, be considered to be aquaculture and shall be permitted in accordance with the listings set forth in section 24.1-306, Table of Land Uses, of this chapter.

The above provisions notwithstanding, Special Use Permit authorization shall not be required for traditional waterman activities (commercial fishing, harvesting seafood from open water using traditional methods) conducted in a manner and from property complying with the terms applicable to commercial aquaculture set forth in section 24.1-414.3.

(2) No admission, dockage, or wharfage fees shall be charged.

(3) On-premises wholesale or retail sale of seafood shall be prohibited.

(4) Outdoor storage of goods, equipment, or materials (other than the workboat itself) shall be limited to a total of one thousand (1,000) square feet and shall not be located in any front or side yard, or within twenty feet (20') of any property line. Any equipment or storage located on the property shall be screened from view from all public streets and adjacent properties by a landscaped buffer area supplemented, if determined necessary by the zoning administrator or the board at the time of permit approval, by masonry or wooden fencing material. In its approval of a special use permit, the board may limit outdoor storage to less than one thousand (1,000) square feet or may require a setback greater than twenty feet (20') if deemed necessary based on the characteristics of the subject site or its surroundings.

(5) Repair of workboats shall be limited to routine maintenance, which may include:

a. minor tune-ups;

b. change of oil and filters;

c. washdown and drainage of workboats;

d. winterizing (draining lines, etc.);

e. other customary routine repairs or maintenance.

(6) All federal, state and local requirements for docking facilities shall be met and the necessary permits obtained prior to the issuance of a building permit for docks, piers, or boat houses.

(7) The workboats and seafood unloading operations shall be conducted in such a manner as to prevent potentially offensive odors from being produced. No overnight storage of seafood waste shall be permitted on the property.

(8) Any outdoor or security lighting shall be shielded so that glare is not directed onto adjacent property.

(9) The number of workboats docked at the property shall not exceed the capacity of the pier or boat house. The "rafting" of boats shall not be permitted.

(10) No heavy trucks shall be permitted to operate from the property.

(11) Any demand for parking generated by the conduct of such use shall be accommodated off the

street.

(12) The storage and utilization of toxic substances shall be limited to types and quantities that would customarily be utilized or stored for residential use. Any storage or utilization of combustible, toxic, or flammable substances shall be in accordance with the National Fire Prevention Code.

(13) The board shall, on a case-by-case basis, review and impose such other conditions as it deems necessary and appropriate to assure that the use will be compatible with, and will not adversely impact, adjoining properties and the environment of the area. Such conditions and restrictions may include:

a. hours of operation;

b. number of workboats permitted to use the private residential pier or dock;

c. a requirement to prepare a water quality impact assessment;

d. additional screening or landscaping requirements for outdoor storage areas and equipment.

(e) Home occupations with non-resident employees.

(1) All home occupation categories whether permitted as a matter of right or by special use permit under section 24.1-282 and 24.1-283 may be authorized under this section to include one (1) or more non-resident employees. The allowable number of non-resident employees shall be specified in the use permit approval.

(2) Evaluation of this allowance shall be based on the general provisions of section 24.1-281 and applicable requirements as set forth in section 24.1-283.

(f) Enlargement or expansion of permitted home occupations.

(1) The board may authorize by special use permit issued in accordance with the procedures stipulated in article I, enlargements or expansion of home occupations permitted in sections 24.1-282 and 24.1-283.

(2) The board shall find that the overall spirit and intent of section 24.1-281 will not be violated by the issuance of a special use permit authorizing an enlargement or expansion and may attach any conditions deemed necessary to ensure such compliance.

(Ord. No. O98-18, 10/7/98)(Ord No. 01-20(R), 10/16/01; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 14-20(R), 10/21/14; Ord. No. 14-20(R), 10/21/14; Ord. No. 15-14, 11/17/15)

Sec. 24.1-284. Prohibited home occupations.

The following uses shall not be permitted as accessory home occupations:

(a) Automobile repair and servicing.

(b) Funeral chapels or funeral homes.

(c) Gift shops.

(d) Medical or dental clinics or hospitals.

(e) Restaurants, tearooms, or other eating or drinking establishments.

(f) Commercial stables, commercial kennels.

(g) Veterinary clinics.

(h) Other activities and land uses which the zoning administrator determines to be materially similar to the

activities listed above.

Secs. 24.1-285 – 24.1-299. Reserved.

ARTICLE III. DISTRICTS

DIVISION 1. IN GENERAL

Sec. 24.1-300. Establishment of zoning districts.

The territory of the county shall be divided into the classes of zoning districts set forth in this article with the boundaries of the districts being as established on the map or maps entitled "Zoning Map of York County" which are incorporated by reference as a part of this ordinance. The tables presented in this Division identify the uses authorized in each zoning district with the exception of the planned development and overlay districts. Reference should be made to the individual planned development district and overlay district regulations for a listing of the types of uses permitted therein and restrictions on certain uses.

The sections which follow present requirements and guidelines for interpretation of the district regulations established by this chapter.

Sec. 24.1-301. Interpretation of table of uses.

(a) *Coding system*. The uses permitted in each zoning district created by this chapter are indicated in the table in section 24.1-306 according to the coding system set forth below:

CODE	INTERPRETATION
P	Permitted as a matter of right
A	Administratively issued permit required
S	Special use permit issued by the board required in accordance with standards established in article I
Blank	Use not permitted

(b) *Categorization system*. Uses listed in the table in section 24.1-306 are organized according to the categories set forth below:

CATEGORY	USE
1	Residential Uses
2	Agriculture, Animal Keeping and Related Uses
3	(RESERVED)
4	Community Uses
5	Educational Uses
6	Institutional Uses
7	Public and Semipublic Uses
8	Temporary Uses
9	Recreation and Amusement Uses
10	Commercial and Retail Uses
11	Business and Professional Service Uses
12	Motor Vehicle and Transportation Related Uses
13	Shopping Centers and Business Parks
14	Wholesaling and Warehousing
15	Limited Industrial Uses
16	General Industrial Uses
17	Utilities and Related Uses

(c) *Meaning of Terms*. The terms in this article have specific and limited meanings.

(1) The term "permitted use" represents only those uses which are allowed in a district without a special permit. Permitted uses are designated by the letter **"P"** in the Table of Land Uses established in section 24.1-306. In the event of conflict between the table and the text of this chapter, the text shall control.

(2) The terms "special use" and "specially permitted use" are synonymous and refer to those uses which are permitted only by special use permit authorized by the board in accordance with applicable standards and the review and approval procedures established in article I. Such uses are designated by the letter **"S"** in the table of land uses established in section 24.1-306. In the event of conflict between the table and the text of this chapter, the text shall control.

(3) The term “administrative permit” shall refer only to those uses specifically denoted with the letter “A” in the table of land uses established in section 24.1-306 for which an administratively issued permit is required prior to commencing the use. Administrative permits are issued by the zoning administrator in accordance with the performance standards and requirements established for the specific use in article IV of this chapter.

(d) *Districts*. The following zoning districts are established:

District	Definition	Primary Permitted Use
RC	Resource conservation	Very low density single-family detached, agriculture, aquaculture, military, conservation, environmentally sensitive areas
RR	Rural residential	Low density single-family detached, agriculture, aquaculture
R33	Low density single-family residential	Low density single-family, subdivision settings
R20	Medium density single-family residential	Medium density single-family detached
R13	High density single-family residential	High density single-family detached
R7	Manufactured home subdivision	Manufactured homes within a manufactured home subdivision
RMF	Multi-family residential	Duplexes, townhouses, multiplexes, apartments, and condominiums
YVA	Yorktown village activity	Residential and nonresidential uses within historic Yorktown
NB	Neighborhood business	Retail uses and services for nearby residential areas
LB	Limited business	Commercial retail uses, businesses and professional services and offices having a predominant “9 to 5" character
GB	General business	Broad range of retail commercial uses, shopping centers, fast food establishments, business and professional services, and automotive services
WCI	Water-oriented commercial and industrial	Marina, marine supply stores, seafood processing and storage, aquaculture
EO	Economic opportunity	Retail, tourist-related and limited industrial activities,
IL	Limited industrial	Wholesaling and warehousing activities, limited manufacturing and assembly and recycling centers, agriculture, aquaculture
IG	General industrial	Warehousing, petroleum production, broad range of industrial uses, and utility facilities, agriculture, aquaculture
PD	Planned development	Planned development including mixed use development

(Ord. No. 14-12, 6/17/14; Ord. No. 14-20(R), 10/21/14)

Sec. 24.1-302. Uses not listed.

It is the intent of this chapter to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by special permit. In the event a particular use is not listed in this chapter as a permitted use, a specially permitted use, or an administratively permitted use, and such use is not listed in section 24.1-307 as a prohibited use and is not prohibited by law, then such use shall not be permitted unless the zoning administrator shall determine whether a materially similar use exists in this chapter. Should the zoning administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing. Should the zoning administrator determine that a materially similar use does not exist, the matter shall be referred to the planning commission for consideration of the initiation of an application for amendment of the chapter to establish a specific listing for the use in question.
(Ord. No. 01-20(R), 10/16/01; Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-303. Interpretation of district and lot size requirements.

(a) In this chapter, district and lot size requirements are expressed in terms of:

(1) Minimum district size

(2) Minimum lot area

(3) Minimum lot width

(b) Minimum lot area and minimum lot width requirements are for conventional subdivision lots; for open space subdivision lots, refer to section 24.1-402.

(c) Where no minimum district size is specified, the minimum lot area and lot width requirements shall define the minimum district size.

(d) Where a minimum district size is specified for a particular zoning classification, additional lands, which standing alone do not meet the minimum district size requirements, may be rezoned to such classification if such lands are contiguous to the zoned district, if the rezoning would be consistent with the adopted comprehensive plan, and provided that with the addition of such land the total contiguous area in the given classification will equal or exceed the required minimum district size.

(e) Unless otherwise specified in this chapter, all uses permitted by right or by special use permit shall be subject to the minimum lot size requirements specified for a given district.

(f) In the event of conflict between the tables of district and lot size requirements and the text of this chapter, the text shall control.

Sec. 24.1-304. Interpretation of lot and building dimensional requirements.

(a) In this chapter lot and building dimensional requirements are expressed in terms of:

(1) minimum setback requirements

(2) minimum yard requirements

(3) maximum building height

(b) Minimum setback and yard requirements shall be as set forth for each particular zoning district, except as may be specifically qualified by other provisions of this chapter.

(c) Maximum building height shall be as set forth for each particular zoning district except as may be specifically qualified by other provisions of this chapter. Maximum building height shall be determined in accordance with the definition of 'Building height' set forth in section 24.1-104.

(d) In the event of conflict between the Tables of Lot and Building Dimensional Requirements and the text of this chapter, the text shall control.

Sec. 24.1-305. Additional requirements.

(a) Additional provisions which may be directly applicable to the types of development permitted in the zoning districts are contained in other sections of this chapter and may qualify or supplement the regulations presented within each district. Furthermore, other provisions of the code, including without limitation, the erosion and sediment control ordinance, stormwater management ordinance and subdivision ordinance may affect the use and development of land.

(b) Performance standards for most uses are contained in article IV of this chapter. These are minimum standards which must be achieved for the establishment of the use to which they pertain whether the use is permitted as a matter of right or only by a special or administrative permit. Additional performance standards may be imposed during the issuance of special use permits in accordance with the applicable provisions of this chapter.

Sec. 24.1-306. Table of land uses.

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	**RESIDENTIAL DISTRICTS**							**COMMERCIAL AND INDUSTRIAL DISTRICTS**						
	RC	**RR**	**R33**	**R20**	**R13**	**R7**	**RMF**	**NB**	**LB**	**GB**	**WCI**	**EO**	**IL**	**IG**
USES	CATEGORY 1 - RESIDENTIAL USES													
1. Residential - Conventional														
a) Single-Family, Detached	P	P	P	P	P		S							
b) Single-Family, Attached														
• Duplex					S		P							
• Townhouse							P							
• Multiplex							P							
c) Multi-Family							P							
d) Manufactured Home (Permanent)						P								
2. Residential (Cluster Techniques Open Space Development)														
a) Single-Family, Detached	P	P	P	P	P									
b) Single-Family, Attached														
• Duplex	S	S	S	S	S									
3. RESERVED														
4. Manufactured Home Park						S								
5. Boarding House		S					S							
6. Tourist Home, Bed and Breakfast	S	S	S	S	S		S		P	P				
7. Group Home (for more than 8 occupants)		S	S	S	S		S							
8. Transitional Home		S	S	S	S		S							
9. Senior Housing – Independent Living Facility														
(a) detached or attached units w/individual outside entrances							S							
(b) multi-unit structures w/internal entrances							S		S	S		S		
(c) multi-unit structure w/internal or external entrances to individual units when established in an adapted structure formerly used as hotel or motel.									S	S		S		

(Ord. No. 03-2, 1/21/03; Ord. No. 03-8(R), 3/4/03; Ord. No. 03-25, 6/17/03; Ord. No. 08-17(R), 3/17/09; Ord. No. 11-15(R), 11/16/11; Ord. No. 13-16, 11/19/13; Ord. No. 14-12, 6/17/14; Ord. No. 14-20(R), 10/21/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 2 - AGRICULTURE, ANIMAL KEEPING, AND RELATED USES**													
1. Aquaculture	P										P		P	P
2. Agriculture	P	P											P	P
3. RESERVED														
4. Plant Nursery or Greenhouse a) Wholesale Only	P	P								P		P	P	
b) Retail Sales with or without wholesale sales	S	S							P	P		P	P	
c) Retail or Wholesale with accessory landscape contracting storage & equipment	S	S								S		P	P	P
5. RESERVED														
6. RESERVED														
7. Animal Hospital, Vet Clinic, Commercial Kennel a) Without Outside Runs	S	S					S		S	P		P	P	P
b) With Outside Runs	S	S								S		S	P	P
8. Commercial Stables		S											S	S
9. Commercial Orchard or Vineyard	P	P											P	P
10. Forestry	P	P											P	P
11. Farmer's Market	S							P		P		P	P	P

(Ord. No. 11-15(R), 11/16/11; Ord. No. 14-12, 6/17/14; Ord. No. 14-20(R), 10/21/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 3 - RESERVED**													

(Ord. No. 14-20(R), 10/21/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 4 - COMMUNITY USES**													
1. Meeting Halls, Recreational, Social Uses, or Private Clubs Operated by Social, Fraternal, Civic, Public, or Similar Organizations		S	S	S	S	S	S	S	S	P	S			P
2. Any Recreational or Social Uses Approved as a Part of a Subdivision or Site Plan and Operated Primarily for Use of Residents or Occupants of Such Development	P	P	P	P	P	P	P				P			

(Ord. No. 14-12, 6/17/14)

PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 5 - EDUCATIONAL USES**													
1. Pre-school, Child Care, Nursery School		S	S	S	S	S	S	P	P	P	S	P		
2. Elementary, Intermediate, High School and/or Vo-Tech and Related Support Facilities														
a) York County Public Schools	P	P	P	P	P	P	P	P	P	P	P	S	S	S
b) Other		S	S	S	S	S	S	S	S	P	S	S	S	S
3. Technical, Vocational, Business School									S	P		P	P	
4. College/University		S							S	P		P		

(Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 6 - INSTITUTIONAL USES**													
1. Place of Worship including Accessory Parsonage, Parochial School, Accessory Day Care, Accessory Cemetery		P	P	P	P	P	P	P	P	P				
1a. Convent/Monastery		S					S		S			S		
2. Senior Housing – Congregate Care							S		S	S		S		
3. Senior Housing – Assisted Living							S		S	S		S		
4. Senior Housing – Continuing Care Retirement Community							S		S	S		S		
5. Nursing Home		S	S	S	S		S		S	S		S		
6. Medical Care Facility, including General Care Hospital, Trauma Center									S	P		P		
7. Emergency Care/First-Aid Centers or Clinic									P	P		P		
8. Secured Medical Facility										S				

(Ord. No. 11-15(R), 11/16/11; Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 7 - PUBLIC AND SEMI-PUBLIC USES**													
1. Conference Center									P	P		P		
2. Post Office								P	P	P		P		
3. Animal Shelter		S											S	S
4. Museum									P	P	S	P		
5. Government Offices	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6. Libraries		P	P	P	P	P	P	P	P	P	P	P	P	P
7. Public Safety Facilities (Fire, Rescue, Sheriff)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
8. Park or Recreation Facilities (Civic or Semi-Public), excluding golf courses	S	S	S	S	S	S	S	S		P	S	P	S	S
9. Governmental Park & Recreation Facilities (Athletic and Non-Athletic)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
10. Cemetery	S	S	S	S	S	S	S		P	P				
11. Military Installation	P	P												

12. Correctional Facility a) County Jail	P							P	P	P	P		P	P
b) Other Facility													S	S

(Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT* *A=PERMITTED BY ADMINISTRATIVELY ISSUED PERMIT*	**RESIDENTIAL DISTRICTS**							**COMMERCIAL AND INDUSTRIAL DISTRICTS**						
	RC	**RR**	**R33**	**R20**	**R13**	**R7**	**RMF**	**NB**	**LB**	**GB**	**WCI**	**EO**	**IL**	**IG**
USES	**CATEGORY 8 - TEMPORARY USES**													
1. Carnival, Circus, Fair, Festival or Similar Special Event	A	A	A	A	A	A	A	A	A	A	A	A	A	A
2. Sale of Seasonal Items such as Christmas Trees, Produce	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3. Recycling Collection Point	A	A	A	A	A	A	A	A	A	A	A	A	A	A
4. Craft Shows & Sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A
5. Flea Markets										S			S	S
6. Temporary Construction Office Trailers & Buildings	A	A	A	A	A	A	A	A	A	A	A	A	A	A
7. Temporary Construction Workers' Parking	S	S	S	S	S	S	S	P	P	P	P	P	P	P
8. Temporary Home While Constructing Permanent Dwelling Facilities	A	A	A	A	A		A				A			
9. Temporary Trailers for Business or School Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A
10. Model Home Display Parks										S			S	
11. Mobile Food Vending Vehicle (Food Trucks)								A	A	A	A	A	A	A

(Ord. No. 14-12, 6/17/14; Ord. No. 15-15(R), 1/19/16)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	**RESIDENTIAL DISTRICTS**							**COMMERCIAL AND INDUSTRIAL DISTRICTS**						
	RC	**RR**	**R33**	**R20**	**R13**	**R7**	**RMF**	**NB**	**LB**	**GB**	**WCI**	**EO**	**IL**	**IG**
USES	**CATEGORY 9 - RECREATION AND AMUSEMENT (NON-GOVERNMENTAL)**													
1. Theater - Indoor										P		P		
2. Health, Exercise, Fitness Centers Including Swimming and Racquet Sports														
a) Indoor Only								S	P	P		P	P	P
b) Indoor & Outdoor									S	P		P	P	P
3. Bowling Alley										P		P		
4. Video Arcade, Pool Hall, Billiards Hall, Bingo Hall										S		S		
5. Indoor Family Amusement Center									S	P		P		
6. Skating Rink										P		P		
7. Firing Range-Indoor Only										S			S	S
8. Paintball Gun Firing Range-outdoor	S													S
9. Miniature Golf, Waterslide, Skateboard Rink, Baseball Hitting Range, Outdoor Commercial Amusement										S		S		
10. Golf Driving Range	S									P		S	S	S
11. Country Club or Golf Course, Public or Private	S	S	S	S	S	S	S		S			S		
12. Campgrounds	S	S								S	S			
13. Theme Park, Amphitheater, Stadium										S		S	S	S
14. Marina, Dock, Boating Facility (Commercial)											P		P	P
15. Marina, Dock, Boating Facility (Private/Club)	S	S	S	S	S	S	S				P		P	P

(Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 10 - COMMERCIAL / RETAIL[1]													
1. Antiques/Reproductions, Art Gallery								P	P	P	P	P		
2. Wearing Apparel Store								P	P	P		P		
3. Appliance Sales										P		P		
4. Auction House									P	P		S		
5. Convenience Store								S	S	S		S		
6. Grocery Store								P		P		P		
7. Book, Magazine, Card Shop								P	P	P		P		
8. Camera Shop, One-Hour Photo Service								P	P	P		P		P
9. Florist								P	P	P		P		P
10. Gifts, Souvenirs Shop									P	P		P		
11. Hardware, Paint Store									P	P		P	P	P
12. Hobby, Craft Shop									P	P		P		
13. Household Furnishings, Furniture										P		P		
14. Jewelry Store									P	P		P		
15. Lumberyard, Building Materials										S			P	P
16. Music, Records, Video Tapes									P	P		P		
17. Drug Store								S	S	P		P		
18. Radio and TV Sales									S	P		P		
19. Sporting Goods Store									P	P		P		
20. Firearms Sales and Service									S	S		S		
21. Tobacco Store									P	P		P		
22. Toy Store									S	P		P		
23. Gourmet Items/Health Foods/Candy/ Specialty Foods/Bakery Shops								P	P	P		P		
24. ABC Store									P	P		P		
25. Bait, Tackle/Marine Supplies Including Incidental Grocery Sales										P	P	P	S	S
26. Office Equipment & Supplies									P	P		P	P	P
27. Pet Store								S	P	P		P		
28. Bike Store, Including Rental/Repair								P	P	P		P		P
29. Piece Goods, Sewing Supplies								P	P	P		P		
30. Optical Goods, Health Aids or Appliances									P	P		P		P
31. Fish, Seafood Store										P	P	P		
32. Department, Variety, Discount Store										P		P		
33. Auto Parts, Accessories (new parts)									P	P		P		
34. Second Hand, Used Merchandise Retailers (household items, etc.) a) without outside display/ storage b) with outside display/storage									 P S	 P S				
35. Storage shed and utility building sales/display										S			P	P
36. Home Improvement Center										P		P		

(Ord. No. 14-12, 6/17/14)

[1]See Section 24.1-466(g) for special provisions applicable to developments with 80,000 or more square feet of gross floor area.

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 11 – BUSINESS / PROFESSIONAL SERVICE													
1. Broadcasting Studio									P	P		P	P	P
2. Barber/Beauty Shop								P	P	P		P		P
3. Apparel Services (Dry Cleaning/Laundry retail) Laundromat, Tailor, Shoe Repair, etc.)								P	P	P		P	P	P
4. Funeral Home (may include cremation services									S	P		P		
4a. Cremation Services (human or pets)										S			S	S
5. a) Photographic Studio								S	P	P		P	P	P
b) Film Processing Lab									S	P		P	P	P
6. Household Items Repair										P		P	P	P
7. Fortune Teller										S				
7.1 Tattoo Parlor													S	
7.2 Pawn Shop										S				
8. a) Banks, Financial Institutions								P	P	P		P		
b) Freestanding Automatic Teller Machines								P	P	P	S	P		
8.1 Payday Loan Establishments										S				
9. Offices							S	P	P	P		P	P	P
10. Hotel & Motel									S	P	S	P		
11. Timeshare Resort							S			S	S	S		
12. Restaurant/Sit Down									P	P		P		
13. Restaurant/Brew-Pub										P		P		
14. Restaurant/Fast Food									S	P		S		
15. Restaurant/Drive In									S	P		S		
16. Restaurant - Carryout/Delivery only								S	P	P		S		
17. Catering Kitchen/Services								S	P	P		S		
18. Nightclub									S	S		S		
19. Commercial Reception Hall or Conference Center								S	S	P	S	P		
20. Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)										P	P		P	P
21. Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment										P		P	P	P
22. Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users									P	P		P	P	P
23. Professional Pharmacy								P	P	P		P		

(Ord. No. 05-34(R),12/20/05; Ord. No. 06-21, 9/19/06; Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 12 – MOTOR VEHICLE / TRANSPORTATION**													
1. Car Wash									S	S		S		
2. Automobile Fuel Dispensing Establishment/ Service Station (May include accessory convenience store and/or car wash)										S		S	S	
3. Auto Repair Garage										S			P	P
4. Auto Body Work & Painting										S		S	P	P
5. Auto or Light Truck Sales, Rental, Service (New or used vehicles sales) (Including Motorcycles or R.V.'s) a) Without Auto Body Work & Painting										S		S	P	P
b) With Body Work & Painting										S		S	P	P
6. Heavy Truck and Equipment Sales, Rental, Service										S			P	P
7. Farm Equipment Sales, Rental, Service										S			P	P
8. Manufactured Home Sales, Rental, Service										S			S	S
9. Boat Sales, Service, Rental, and Fuel Dispensing										P	P		S	
10. Marine Railway, Boat Building and Repair											P		P	P
11. Truck Stop													S	S
12. Truck Terminal													P	P
13. Heliport										S		S	S	S
14. Helipad										S		S	S	S
15. Airport												S	S	S
16. Bus or Rail Terminal										P		S	P	P
17. Taxi or Limousine Service										P			P	
18. Towing Service / Auto Storage or Impound Yard													S	S
18a. Recreational Vehicle Storage Facility										S			P	P
19. Automobile Graveyard, Junkyard														S
20. Bus Service/Repair Facility													P	P

(Ord. No. 09-22(R), 10/20/09; Ord. No. 10-24, 12/21/10; Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	**CATEGORY 13 - SHOPPING CENTERS / BUSINESS PARKS[1]**													
1. Neighborhood Shopping Center								P	P	P		P		
2. Community or Regional Shopping Center										P		P		
3. Specialty Shopping Center									S	P		P		
4. Office Park									P	P		P	P	P
5. Industrial Park												P	P	P

(Ord. No. 14-12, 6/17/14)
[1]See Section 24.1-481(a)(3) for special provisions applicable to shopping centers with 80,000 or more square feet of gross floor area.

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 14 - WHOLESALING / WAREHOUSING													
1. Wholesale Auction Establishment a) without outdoor storage/activity										P			P	P
b) with outdoor storage										S			P	P
2. Warehousing, Including Moving and Storage Establishment										S		S	P	P
3. Wholesale Trade Establishment (May Include accessory retail sales) a) without outdoor storage										P		P	P	P
b) with outdoor storage										S		S	P	P
4. Seafood Receiving, Packing, Storage											P		S	P
5. Petroleum Products Bulk Storage/Retail Distribution													S	P
6. Mini-Storage Warehouses a. Single-story b. Multi-story										S S			P P	P P

(Ord. No. 11-15(R), 11/16/11; Ord. No. 14-12, 6/17/14)

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 15 - LIMITED INDUSTRIAL ACTIVITIES													
1. Laboratories, Research/Development Testing Facilities										S		P	P	P
2. Publishing, Printing, Other than general public and business/professional services										P		P	P	P
3. Computer and Technology Development and Assembly										P		P	P	P
4. Contractors' Shops (e.g., Plumbing, Electrical, Mechanical, HVAC, Home Improvement or Construction, Swimming Pool, Landscaping, Cabinetmaking, General Building, Excavating, etc.) a) With Enclosed Storage of Equipment or Materials										P			P	P
b) With Outdoor/Exposed Storage										S			P	P
5. Laundry, Dry Cleaning Plant (institutional)													P	P
6. Stone Monument Sales, Processing													S	P
7. Manufacture or Assembly of Electronic Instruments, Components, Devices										S	S	P	P	P
8. Machine Shops & Fabricators										S	S		P	P
9. Manufacture or Assembly of Medical, Drafting, Metering, Marine, Photo-graphic, Mechanical Instruments												P	P	P
10. Ice Manufacturing and Storage													P	P
11. Microbreweries, micro-distilleries, micro-Wineries, micro-cideries										P		P	P	P
12. Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass									S	P			P	P
13. Recycling Center									S	S			P	P
14. Recycling Plant													S	P

(Ord. No. 14-12, 6/17/14; Ord. No. 14-27, 12/16/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 16 - GENERAL INDUSTRIAL													
1. Manufacture & Assembly of Tools, Firearms, Hardware, HVAC Equipment												S	P	P
2. Manufacture & Assembly of Musical Instruments, Toys, Novelties												S	P	P
3. Manufacture, Compounding, Processing, Packaging of Cosmetics, Toiletries, Pharmaceuticals												S	P	P
4. Manufacture, Compounding, Assembly of Products Made From Previously Prepared Paper, Plastic, Metal, Textiles, Tobacco, Wood, Paint, Fiber, Glass, Rubber, Leather, Cellophane, Canvas, Fur, Felt, Horn, Wax, Hair, Yarn												S	P	P
5. Manufacture of Pottery and Ceramic Products												S	P	P
6. Manufacture, Compounding, Processing & Packaging of Food and Food Products												S	P	P
7. Concrete or Asphalt Mixing, Batching Plant														S
8. Distillation of Varnish, Turpentine														S
9. Fertilizer Manufacturing														S
10. Fireworks, Explosives Manufacturing, Storage														S
11. Fish Canning, Curing, Grinding, Smoking											S			S
12. Glue, Size Manufacturing														S
13. Iron, Steel, Copper, Metal Works & Foundries														S
14. Lime, Cement, Gypsum, Plaster Manufacturing														S
15. Petroleum Products, Alcohol Refining, Manufacturing, Mixing, Storage														S
16. Soap Manufacturing														S
17. Tanning/Curing Hides														S
18. Slaughterhouse, Rendering Plant														S
19. Chemical Manufacturing													S	S
20. Paint, Shellac Manufacturing													S	S
21. Extractive Industries, Surface Mines, Borrow Pits														S
21.1. Soil Stockpiling	S	A	S	S	S	S	S	A	A	A	A	A	A	A
22. Sawmill/Firewood splitting/sales lot													S	S
23. Construction Trailer Storage Yards													S	S
24. Reclamation of Non-Conforming Borrow Pits	P	P	P	P	P	P	P	P	P	P	P	P	P	P
25. Meat & Poultry Packing, Curing, Canning, Smoking														S

(Ord. No. 14-12, 6/17/14)

P=PERMITTED USE *S=PERMITTED BY SPECIAL USE PERMIT*	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 17 - UTILITIES													
1. Electric Substations, Distribution Center, Transformer Stations, Telephone Exchanges	S	S	S	S	S	S	S	A	A	A	S	S	A	P
2. Electric Generating Plants														S
3. Sewage Pump/Lift Stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P
4. Sewage Treatment/Disposal Facilities	S	S											S	S
5. Water Purification Facilities	S	S											S	P
6. Water Storage Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	P
7. Radio, Television, Microwave Facilities	S	S								S	S	S	P	P
8. Utility Transmission Facilities other than Normal Distribution Facilities (Essential Services): Including Telephone Exchanges, Pipelines, High Voltage Power Lines	S	S	S	S	S	S	S	S	S	S	S	S	S	S
9. Solid Waste Disposal and Treatment Facilities including Incinerators, Landfills, Transfer Stations														S
10. Storage, Handling, Transport of Coal or Other Solid Fossil Fuels used in the County; Storage, Handling, Transport, Disposal of Fly Ash, Bottom Ash														S

(Ord. No. O98-18, 10/7/98; Ord. No. O99-17, 12/1/99; Ord. No. 00-12, 7/18/00; Ord. No. 00-15, 8/15/00; Ord. No. 00-22, 12/19/00; Ord. No. 03-25, 6/17/03; Ord. No. 04-2(R), 3/2/04; Ord. No. 05-13(R), 5/17/05; Ord. No. 06-19(R), 7/18/06; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-18(R-1), 1/18/11; Ord. No. 14-12, 6/17/14)

Sec. 24.1-307. Prohibited uses.

The following uses shall be prohibited in the county:

(a) Smelting;

(b) Nuclear materials manufacturing;

(c) Nuclear waste processing or disposal;

(d) Biohazard waste processing or disposal; and

(e) Manufacture, transformation, or distribution of biologically accumulative poisons or other poisons that are or ever were registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135, et sec.).

(f) ATV (All Terrain Vehicle) tracks, cross-country circuits or other facilities de-signed or used for operation of such vehicles by other than the property owner/occupant as an activity accessory to their residential use of a property.

(g) Placement of trailers or containerized cargo units on any property for storage or other uses, except as specifically authorized by the terms of this chapter.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09)

Secs. 24.1-308—24.1-319. Reserved

DIVISION 2. RESIDENTIAL DISTRICTS

Sec. 24.1-320. Purpose of residential districts.

The purpose of the residential districts is to provide a full range of opportunity in accordance with the comprehensive plan, and specifically the housing element and land use element, for the orderly, healthful, convenient, and affordable distribution of housing throughout the county. A variety of densities and housing arrangements is provided based on the availability or expected availability of the public service infrastructure necessary to serve development. The lower density arrangements have been established in order to protect significant natural and environmentally sensitive lands from conversion to more intense land uses. These areas include woodlands, scenic areas, wetlands, watersheds, steep slopes, farmland, and other similarly sensitive areas. Their protection will help minimize environmental hazards such as flooding, erosion, siltation, and air and water pollution and serve to maintain the rural character and quality of the county.

Sec. 24.1-321. RC-Resource conservation district.

(a) *Statement of intent*. The RC district is the least intense zoning classification and is intended primarily for those areas of the county designated for military or conservation uses in the comprehensive plan. This designation is also appropriate for lands designated for low density residential development which are not served by public utilities, are located within areas of particular environmental sensitivity as identified in the natural areas inventory, or have unusual development constraints caused by previous development or the presence of steep slopes, wetlands, or other environmental constraints.

(b) Dimensional standards. Each lot created or used shall be subject to the following dimensional standards:

RC-RESOURCE CONSERVATION DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height[1]
	Area	Width	Front	Side	Rear	
Single-Family Detached Dwellings	5 ac 2 ha	300' 90m	50' 15m	50' 15m	50' 15m	35' 12m
All Other Permitted & Special Uses	5 ac 2 ha	300' 90m	50' 15m	50' 15m	50' 15m	35' 10.5m

[1] For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:
Residential open space subdivision techniques may be used in this district
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(Ord No. O97-17, 6/4/97; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-322. RR-Rural residential district.

(a) *Statement of intent*. The RR district is intended to provide opportunities primarily for single-family residential development generally having a maximum density of one dwelling unit per acre. Low density development is appropriate in areas where public services and facilities are limited and/or physical or environmental constraints are prevalent.

(b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

RR-RURAL RESIDENTIAL DISTRICT

Use Classification	Minimum Lot Requirements[1]		Minimum Yard Requirements			Maximum Building Height[2]
	Area	Width	Front	Side	Rear	
Single-Family Detached Dwellings	1 ac 4000 m^2	150' 45m	50' 15m	20' 6m	50' 15m	35' 12m
All Other Permitted & Special Uses	1 ac	150'	50'	20'	50'	35'

	4000 m^2	45m	15m	6m	15m	10.5M

(1) These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to Section 24.1-204.
(2) For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:
Residential open space subdivision techniques may be used in this district.
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(Ord No. O97-17, 6/4/97; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-322.1. R33-Low density single-family residential district.

(a) Statement of intent. The intent of the R33 district is to provide opportunities for low density single-family residential development. The district is intended to be established in areas designated Conservation or Low Density Residential by the Comprehensive Plan where public utilities are available and where existing development is arranged and situated in a relatively compact subdivision setting or where any future in-fill residential development should be of a similar suburban subdivision character.

(b) Dimensional standards. Each lot created or used shall be subject to the following dimensional standards:

R33-SINGLE-FAMILY RESIDENTIAL DISTRICT

Use Classification	Minimum Lot Requirements (1)		Minimum Yard Requirements			Maximum Building Height (2)
	Area	Width	Front	Side	Rear	
Single-Family Detached Dwellings	33,000 sq. ft.	130'	50'	15'	30'	35'
All Other Permitted & Special Uses	33,000 sq. ft.	130'	50'	15'	30'	35'

(1) These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to Section 24.1-204.
(2) For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:
Residential open space subdivision techniques may be used in this district
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(Ord. No. 14-12, 6/16/14)

Sec. 24.1-323. R20-Medium density single-family residential district.

(a) Statement of intent. The intent of the R20 district is to provide opportunities for medium density single-family residential development. Its intended application is for areas designated medium density by the comprehensive plan where public utilities are available.

(b) Dimensional standards. Each lot created or used shall be subject to the following dimensional standards:

R20-SINGLE-FAMILY RESIDENTIAL DISTRICT

Use Classification	Minimum Lot Requirements (1)		Minimum Yard Requirements			Maximum Building Height (2)
	Area	Width	Front	Side	Rear	

Single-Family Detached Dwellings	20,000 sq. ft. 1850m^2	100' 30m	40' 12m	15' 4.5m	30' 9m	35' 12m
All Other Permitted & Special Uses	20,000 sq. ft. 1850m^2	100' 30m	40' 12m	15' 4.5m	30' 9m	35' 10.5m

(1) These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to Section 24.1-204.
(2) For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:
Residential open space subdivision techniques may be used in this district
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(Ord. No. O97-17, 6/4/97)

Sec. 24.1-324. R13-High density single-family residential district

(a) *Statement of intent*. The R13 district is intended to provide opportunities for single-family residential development generally having a maximum density of 3.0 dwelling units per acre. High density single-family detached development can be expected to generate substantial demands on public services facilities and should be located where adequate public services, transportation facilities and commercial centers are available.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

R13-SINGLE-FAMILY RESIDENTIAL DISTRICT

Use Classification	Minimum Lot Requirements(1)		Minimum Yard Requirements			Maximum Building Height(3)
	Area	Width	Front	Side(2)	Rear	
Single-Family Detached Dwellings	13,500 sq. ft. 1,250m^2	90' 27m	30' 9m	12.5' 3.75m	25' 7.5m	35' 12m
All Other Permitted & Special Uses	13,500 sq. ft. 1,250m^2	90' 27m	30' 9m	12.5' 3.75m	25' 7.5m	35' 10.5m

(1) These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and/or public sewer, refer to Section 24.1-204.
(2) Side yard may be adjusted to fit lots provided that no side yard shall be less than ten feet (10') and that the total of the two side yards on the same lot is no less than twenty-five feet (25').
(3) For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none.

NOTE:
Residential open space subdivision techniques may be used in this district
Performance standards and special use permit requirements or conditions may increase yard and lot requirements-See Article IV

(Ord. No. O97-17, 6/4/97; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-325. R7-Single-family manufactured home subdivision district.

(a) *Statement of intent*. The R7 district is intended for application as a high density single-family residential zoning district in those areas designated as such by the comprehensive plan. Under certain circumstances the district could be applied to areas designated for multi-family residential uses by the comprehensive plan. The district is designed to provide opportunities for the placement of manufactured homes on individual lots in a subdivision arrangement in an effort to encourage the provision of more affordable housing opportunities which are consistent with the needs and means of lower income households.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

R7-SINGLE-FAMILY MANUFACTURED HOME SUBDIVISION DISTRICT

Use Classification	Minimum Lot Requirements[1]		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
Manufactured Homes	7,500 sq. ft. 700m^2	70' 21m	30' 9m	10' 3m	20' 6m	35' 10.5m
All Other Permitted and Special Uses	20,000 sq. ft. 1850m^2	100' 30m	30' 9m	10' 3m	25' 7.5m	35' 10.5m

[1]These minimum lot requirements apply where both public water and public sewer are available. The R7 district may not be applied to areas without both public water and public sewer.
[2]Whenever any lot in an R7 district abuts any land in any other residential zoning district the following yard requirements shall be observed for that portion of the lot which abuts the other residential district:
· Side Yard: Forty feet (40'); provided, however, accessory buildings may be located not less than fifteen feet (15') from the side lot line.
· Rear Yard: Forty feet (40'), provided, however, accessory buildings may be located not less than twenty-five feet (25') feet from the rear lot line.

Minimum district size: 5 acres [2ha]

NOTE:
Performance standards and special use permit requirements or conditions may increase yard and lot requirement. See article IV.

Sec. 24.1-326. RMF-Multi-family residential district.

(a) *Statement of intent*. The RMF district is intended for application in those areas designated for multi-family/general residential development by the comprehensive plan. In accordance with direction provided by the plan, this district is designed to provide opportunities for higher density living arrangements with an orientation toward the rental market but not to the exclusion of single-family attached, owner-occupied housing types. As a high density development, this district can be expected to generate very intensive demands on public services and facilities and should be located accordingly. However, *senior housing*, which is permitted by special use permit, can be expected to generate lesser demands on most public facilities and services than would otherwise be the case on a per-unit basis for traditional general market multi-family development. Therefore, as set out in section 24.1-411, opportunities are provided for the Board of Supervisors to authorize, on a case-by-case basis, the development of such senior housing projects at a higher density level than that applicable to general market multi-family residential development.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

USE CLASSIFICATIONS	MAXIMUM DENSITY	MINIMUM LOT REQUIREMENTS[2]		MINIMUM YARD REQUIREMENTS			MAXIMUM BUILDING HEIGHT
		MIN. AREA	MIN. WIDTH	FRONT	SIDE	REAR	
Permitted Uses:							
· Multi-Family Dwellings	10 units per acre 25 du/ha	---	---	50' 15m	25' 7.5m	50' 15m	45' 13.5m
· Single-Family Attached Dwellings	10 units per acre 25 du/ha	1,800 sq. ft. 175m^2	20' 6m	20'[2] 6m	10'[3] 3m	15'[3] 4.5m	35' 10.5m
Other Permitted Uses	---	1 acre 4000m^2	150' 45m	50' 15m	25' 7.5m	50' 15m	45' 13.5m
Special Uses:	---	1 acre 4000m^2	150' 45m	50' 15m	25' 7.5m	50' 15m	45' 13.5m

[1] Minimum Lot Requirements are dependent on the availability of public water and sewer. For lots not served by public water and sewer, refer to section 24.1-204.
[2] Where units are arranged with frontage on a public street, the minimum front yard setback shall be thirty feet (30').
[3] Yards required only adjacent to non-common walls of attached units.

Minimum district size: 5 acres [2ha]

NOTE:
Performance standards and special use permit requirements or conditions may increase the yard and lot Requirements. See article IV.

(Ord. No. 03-25, 6/17/03)

Sec. 24.1-327. YVA-Yorktown village activity district.

(a) *Statement of intent*. The YVA district is intended to:

(1) Recognize Yorktown which, because of its national and international significance, its unique development history and the interrelatedness of historic, residential and commercial land uses, warrants the application of a special approach to further development; and

(2) Recognize and implement the Yorktown Master Plan as an overall guide to the future redevelopment of Yorktown; and

(3) Provide development opportunities for a variety of land uses which will contribute to and complement the unique character and village atmosphere of Yorktown; and

(4) Promote economical and efficient land use, an improved level of amenities, innovative design, and unified development; and

(5) Encourage pedestrian and bicycle-scale development in Yorktown and make the community more amenable to pedestrians and bicyclists.

(b) *Special procedural requirements*.

(1) The use of any land or building within the YVA district on the date of the inclusion of such property in the district may either continue to be used for its then existing purpose or may thereafter be changed, but only in accordance with all applicable regulations, to accommodate any of the land uses listed in section 24.1-327(c), any provisions of article VIII, Nonconforming Uses, of this chapter to the contrary notwithstanding.

(2) Any proposed new use, other than single-family detached dwellings, or any subdivision of land, shall be approved only by the board of supervisors in accordance with the procedures for special use permits in section 24.1-115 of this chapter. Permitted land uses shall be those listed in section 24.1-327(c).

(3) With the exception of single family detached dwellings, the proposed enlargement or extensions of any use in this district which would result in an increase of less than twenty-five percent (25%) in either total lot coverage or floor area may be authorized, without public hearing, by resolution of the board. Proposed enlargement or expansion of any use, other than a single-family detached dwelling, that would result in an increase of twenty-five percent (25%) or more in either total lot coverage or floor area shall be subject to approval in accordance with the procedures for special use permits.

(4) Proposed changes in use of land, buildings or structures within the district may be approved by the zoning administrator upon a determination that the proposed new use is similar in type, size, scope and intensity to the previous use and that it is one of permitted uses listed in subsection (c) below. Where, in the opinion of the zoning administrator, such similarities do not exist, the proposal shall be subject to review and approval in accordance with the procedures for special use permits specified in section 24.1-115 of this chapter.

(5) The construction of new single-family detached dwellings, or the enlargement of existing single-family detached dwellings, shall be permitted as a matter of right provided that the proposed location is not within one of the areas specifically designated for commercial development by the adopted Yorktown Master Plan and that the following setback and dimensional requirements are observed, and provided that all applicable requirements and procedures set out in the Yorktown Historic District Overlay (Section 24.1-377) are observed.

Front Yard	Twenty-five feet (25')
Side Yard	Ten feet (10'), five feet (5') for accessory buildings
Rear Yard	Twenty feet (20'), five feet (5') for accessory buildings
Building Height	Thirty-five feet (35')

(6) Applications for approval of new single family detached residences, or additions to existing single family detached residences, which do not comply with the above noted minimum dimensional standards shall be referred to the Planning Commission and Board of Supervisors in accordance with the same procedures applicable to requests for special use permits.

(7) Any proposed subdivision of a lot or parcel in the YVA District shall be referred to the Planning Commission and Board of Supervisors for review and action in accordance with the same procedures applicable to requests for special use permits.

(c) *Permitted uses*. The following uses may be permitted within the YVA district subject to a determination by the zoning administrator or board, as prescribed in subsection (b) above, that the use in the location proposed is substantially in conformance with the Yorktown Master Plan:

(1) Dwellings, single-family detached, attached, or multi-family; also including structures designed to accommodate both residential and commercial uses.

(2) Churches and other places of worship.

(3) Office space for doctors, lawyers, accountants, architects or similar professions and general business offices such as those of insurance companies, trade associations, real estate companies, banks and financial institutions or similar establishments.

(4) Retail trade and business uses consistent with the character of the district and the surrounding area including such uses as:

a. gift shops;

b. sit-down restaurants; or

c. specialty shops catering to the local and tourist market.

(5) Art galleries, museums, tourist centers, community centers, performing or cultural arts centers, libraries, and similar types of uses intended to promote cultural resources.

(6) Publicly owned uses such as offices, court houses, fire stations, parking facilities, parks, playgrounds, and schools.

(7) Guest houses, bed and breakfast establishments.

(8) Hotels, motels.

(9) Personal service uses consistent with the character of the district and the surrounding area including such uses as:

a. beauty and barber shops;

b. day care facilities; or

c. drug stores.

(10) Recreationally oriented waterfront businesses and establishments providing covered or uncovered boat slips or dock space, minor repairs or servicing, marine fuel and lubricants, marine supplies, refreshments, and similar goods or services.

(11) Commercial parking facilities.

(12) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the uses specifically permitted above.

(d) *General dimensional, density and design requirements*. Other provisions of this chapter notwithstanding, development within the YVA district shall be subject to the following requirements:

(1) All development within the YVA district shall be served by public water and public sewer systems.

(2) There shall be no minimum lot size, minimum lot width or minimum lot frontage requirements within the YVA district provided, however, that in its approval of a proposed subdivision or land use, the board may establish such requirements as it deems necessary to ensure that the arrangement of the proposed use or division of land is compatible with the district in general.

(3) With the exception of the minimum requirements specified for single-family detached dwellings in section 24.1-327(b)(5), there shall be no minimum front, side or rear yard requirements for developments within the YVA district provided, however, that yards and setbacks of an appropriate dimension shall be provided where determined necessary by the board to ensure adequate emergency access, light, and air, to protect the value and utilization of the subject property and adjacent property, and to maintain and enhance the character of the surrounding area.

(4) The maximum residential density permitted in any development proposed in this district shall be ten (10) units per gross acre.

(5) Commercial and other non-residential uses permitted under the terms of this section shall be limited in lot coverage and floor area only to the extent that all such uses shall comply with the open space, height, fire separation, emergency access, and parking and loading requirements specified herein.

(6) With the exception of single-family detached dwellings which shall be limited to thirty-five feet (35') in height, the height of any structure, including fixtures and mechanical systems, within the YVA district shall not exceed twenty-five feet (25') above the average finished ground elevation adjacent to the front of such structure provided, however, that the board, in recognition of unique topographical features, may require a lower maximum height in order to preserve and protect existing scenic views or may authorize a greater height after an evaluation of the character of the surrounding area, the spatial relationships of existing developments, the specific architecture proposed and the potential impacts on any scenic views or vistas.

(e) *Open space and recreational area requirements.*

(1) A minimum of twenty-five percent (25%) of the total area of any development within the YVA District shall be reserved as landscaped open space or improved open air pedestrian plazas or courts unless a smaller percentage is approved by the board in consideration of special or unique characteristics of the proposed development.

(2) In the case of residential developments, recreation space, as defined below, shall be provided at a ratio of two hundred (200) square feet per dwelling unit unless a lesser amount is authorized by the board in consideration of circumstances unique to the particular development proposal. For the purposes of this section, recreation areas may include private patios, balconies or yard areas adjacent to individual dwelling units; or, common recreation space, either indoor or outdoor, which is available to all residents of the development.

(3) Any common open space and recreational areas provided to meet the requirement above shall be protected by appropriate covenants developed in accordance with the provisions established in article IV-division 17 that are designed to ensure their perpetuation and maintenance.

(f) *Special submission requirements*.

(1) At the time of application for approval of a development proposal within the YVA district, the developer shall submit the following plans. Where a proposed development is subject to review and approval by the Historic Yorktown Design Committee (HYDC) in accordance with the terms of section 24.1-377, the review and action of the HYDC, if applicable, shall be secured before submitting the proposal for YVA district review by the board of supervisors:

a. A plan for accommodating the pedestrian, bicycle, automobile, and trolley traffic, parking and loading demands which the development can be expected to generate. The plan shall be prepared by a transportation engineer, unless otherwise authorized by the zoning administrator, and shall be fully documented as to approach, methodology, and data collection, manipulation and analysis.

Such plan may include provisions for public or private off-site parking as well as on-site parking and shall include consideration of pedestrian, bicycle, and transit access. The zoning administrator or the board shall review the plan as to its suitability and feasibility for accommodating the traffic and parking demands of the proposed development.

Where the required parking spaces are proposed to be accommodated by an off-site or transit-oriented arrangement, an appropriate agreement between and among the involved parties and the county, suitable in form and content to the county attorney, shall be executed in order to provide a guarantee that such parking facilities will be available for the total period the use or uses for which the parking is required are reasonably expected to exist.

b. An overall signage plan, including rendered drawings, for the proposed development. Such plan shall provide for unified and appropriately scaled and located signage and shall have been developed in accordance with the dimensional requirements specified in the Yorktown Design Guidelines and shall have been reviewed by the HYDC.

c. A landscaping plan which specifies the type, size and location of landscaping proposed in conjunction with open space, recreation areas, courts/plazas, or other such amenities.

d. Elevations or architectural renderings as well as descriptions of materials or colors to be used in the proposed development, all of which shall have been reviewed by the HYDC.

(2) Such plans as required above, once approved, shall become part of the conditions of approval for the project and shall not be deviated from except upon specific approval of the board or the zoning administrator, depending upon which gave original approval.

(Ord No. O97-17, 6/4/97; Ord. No. O99-16, 12/1/99; Ord. No. 04-6, 4/6/04; Ord. No. 05-13(R), 5/17/05)

Secs. 24.1-328—24.1-329. Reserved.

DIVISION 3. BUSINESS DISTRICTS

Sec. 24.1-330. Purpose of business districts.

The purpose of the business districts is to provide for the orderly development and rational classification of business and commercial land uses based on market orientation and service area characteristics. The districts are designed to provide opportunities for a wide variety of commercial and office activities serving the needs of neighborhoods, communities and regional markets as well as specific market groups. It is also the purpose of the business district regulations to protect the economic base of the county, promote the efficient use of commercial land areas and ensure the compatibility of business areas with other land uses and with the environment.

Sec. 24.1-331. NB-Neighborhood business district.

(a) *Statement of intent*. The NB district is intended to provide opportunities for limited types of commercial activities within or near residential districts and oriented primarily toward serving the day-to-day needs of nearby residential communities. The scope of commercial activities permitted is purposely limited in order to discourage substantial traffic from outside the immediate neighborhood. The NB district is intended for application in areas designated for neighborhood commercial development by the compre-

hensive plan. Because of the proximity to residences, particular attention is given to design and operational compatibility with homes.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

NB-NEIGHBORHOOD BUSINESS DISTRICT

Use Classification	Minimum Lot Requirements[1]		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf 1850m^2	100' 30m	40' 12m	10' 3m	20' 6m	35' 10.5m

[1] These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.

Minimum district size: none

NOTE:
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(c) *Special requirements*.

(1) Outdoor storage of goods or materials shall not be permitted.

(2) Outdoor display of merchandise shall be limited to that merchandise which:

a. is in working order and ready for sale;

b. can be accommodated in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') from it;

No such display shall encroach upon any required parking or loading area or vehicular circulation area. Outdoor displays of merchandise shall not cause injury or harm to or reduce the viability of any required landscaping.

Sec. 24.1-332. LB-Limited business district.

(a) *Statement of intent*. The LB district is intended to provide opportunities for commercial activities having a relatively low external impact, which can be acceptable in proximity to residential areas. The activities envisioned for this district should be of a type that generally occur only during daylight hours, have relatively low external impacts in terms of noise, light, and activity levels, and can be designed to ensure their compatibility with surrounding land uses. The LB district is intended for application in areas designated for office/professional/research development by the comprehensive plan. Further, the LB district is considered an appropriate transitional district between residential and more intense commercial and industrial districts and, in that regard, the district may be appropriate in areas designated for general commercial and tourist commercial uses which are in a particularly sensitive location adjacent to or between residential uses. Accordingly, as set out in section 24.1-411, opportunities are provided for consideration by special use permit of certain types of senior housing which may be appropriate on certain properties as transitional uses.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

LB - LIMITED BUSINESS DISTRICT

Use Classification	Minimum Lot Requirements	Minimum Yard Requirements	Maximum Building Height

	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf 1850m^2	100' 30m	40' 12m	10' 3m	10' 3m	35' 10.5m

Minimum district size: none

NOTE:
These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water or public sewer, refer to section 24.1-204.
Performance standards and special use permits requirements or conditions may increase yard and lot Requirements. See article IV.

(c) *Special requirements.*

(1) Outdoor storage of goods or materials shall not be permitted in any front or side yard areas. In rear yards, outdoor storage shall be allowed only in a fully buffered area which meets applicable setback requirements.

(2) Outdoor display of merchandise shall be permitted only within ten feet (10') of the building and merchandise displayed must be in working order and immediately available for sale.

(3) Loading operations shall be conducted within a building or, if outdoors, shall be conducted at the side or rear of buildings and screened from general public view from public rights-of-way or adjoining properties of equal or lower use intensity by landscaping, fencing, or similar arrangements.

(4) In recognition of the potentially sensitive locations where the LB district may be located, the zoning administrator may require the submission of supplementary material in order to be satisfied that negative external impacts will not spill over onto adjacent properties. These may include, without limitation, noise and lighting analyses, architectural renderings, and standard operations plans for the business to be conducted.

(Ord. No. 03-25, 6/17/03)

Sec. 24.1-333. GB-General business district.

(a) *Statement of intent*. The GB district is intended to provide opportunities for a broad range of commercial activities. Many of these uses are characterized by the need for large amounts of outdoor display and storage of goods or materials, significant parking and loading space requirements, a dependency on truck traffic, and, in general, an activity level and aesthetic character which set them apart from the types of uses permitted in the lower intensity commercial districts. The GB district is intended for application in areas designated for general commercial and tourist commercial development by the comprehensive plan but with specific attention to the suitability of such areas and their surroundings for accommodating the demands and impacts of high intensity commercial development.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

GB-GENERAL BUSINESS DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf	100'	45'	10'	10'	50'

Minimum district size: none

NOTE:
These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(c) *Special requirements*.

(1) Outdoor storage of goods or materials shall not be permitted in front yards. In side and rear yards, outdoor storage shall be in a fully buffered area which meets all applicable setback requirements.

(2) Outdoor display of merchandise shall be limited to that merchandise which:

a. is in working order and ready for sale; and

b. is located in side or rear yards; or

c. if in front, can be accommodated in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') from it except:

1. in the case of a permitted gasoline sales establishment, outdoor display can be accommodated on the pump islands;

2. in the case of permitted vehicle sales establishments, landscape nurseries and materially similar uses, outdoor display which does not encroach upon any required element on the site shall be permitted.

No such display shall encroach upon any required parking or loading area or vehicular circulation area. Outdoor displays of merchandise shall not cause injury or harm to or reduce the viability of any required landscaping.

(3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:

a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;

b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;

c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.

d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.

e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

f. The above provisions notwithstanding, the zoning administrator may authorize the placement of such trailers/cargo units on a site without need for installation of the walled enclosure in situations where the trailers/cargo units are totally obscured from view from any public roadway or customer parking area by virtue of their placement behind a building or buildings on the site and when such units can be effectively screened from view from adjacent properties by buildings, fencing, landscaping, topography or distance.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 10-24, 12/21/10)

Sec. 24.1-334. WCI-Water-oriented commercial/industrial district.

(a) *Statement of intent*. The WCI district is intended to provide opportunities for various types of activities oriented toward and requiring access to the water. The locational characteristics of such uses often dictate that they be within or in close proximity to residential areas or areas with limited vehicular accessibility. To that extent, the regulations established are designed to ensure an appropriate and compatible range of commercial and industrial activities. The WCI district is intended for application in areas designated for water-oriented commercial/industrial development by the comprehensive plan.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

WCI-WATER-ORIENTED COMMERCIAL/INDUSTRIAL DISTRICT

Use Classification	Minimum Lot Requirements[1]		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	1 acre 4000m^2	150' 45m	45' 12.5m	20'[2] 6m	50'[2] 15m	50' 15m

[1] These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.
[2] Yards are not required for uses requiring locations immediately adjacent to or above the water.

Minimum District Size – None

NOTE:
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(c) *Special requirements*.

(1) Outdoor display of goods or material shall be permitted in any yard area provided it does not encroach upon any required landscaping, vehicular circulation, parking or loading space, or interfere with sight triangles or distance.

(2) Outdoor storage of goods or material shall be permitted in rear yards only and only if it does not encroach on any other required element on the site.

Secs. 24.1-335—24.1-339. Reserved.

DIVISION 4. ECONOMIC OPPORTUNITY DISTRICT

Sec. 24.1-340. EO-Economic opportunity district.

(a) *Statement of intent*. The EO district is intended to guide a mix of commercial, tourist-related, and limited industrial uses to certain portions of the county identified in the comprehensive plan that have or are projected to have the access and infrastructure necessary to support both capital and employment intensive uses. Development in these locations is expected to be in keeping with that of the surrounding development and sensitive to the natural environment.

(b) *Dimensional standards*. Each lot created or used shall be subject to the following dimensional standards:

EO-ECONOMIC OPPORTUNITY DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf 1850m^2	100' 30m	45' 12.5m	10' 3m	10' 3m	75' 22.5m

Minimum district size: none

NOTE:
These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(c) *Special requirements*.

(1) Outdoor storage of goods or materials shall:

a. not be permitted in any front yards;

b. not encroach upon any required landscaping;

c. not encroach upon any required parking or loading zoning space;

d. be screened from public rights-of-way or adjoining properties which are zoned or used less intensively.

(2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:

a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;

b. shall not encroach upon any required parking or loading space;

c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and

d. shall not cause injury or harm or reduce the viability of any required landscaping.

(3) All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.

(4) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:

a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property.

b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building.

c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.

d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.

e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

f. The above provisions notwithstanding, the zoning administrator may authorize the placement of such trailers/cargo units on a site without need for installation of the walled enclosure in situations where the trailers/cargo units are totally obscured from view from any public roadway or customer parking area by virtue of their placement behind a building or buildings on the site and when such units can be effectively screened from view from adjacent properties by buildings, fencing, landscaping, topography or distance.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 10-24, 12/21/10)

Secs. 24.1-341—24.1-349. Reserved.

DIVISION 5. INDUSTRIAL DISTRICTS

Sec. 24.1-350. Purpose of industrial districts.

The industrial districts established by this ordinance are designed to provide opportunities for a variety of industrial uses that will serve to expand employment opportunities and contribute positively to county resources. The districts are designed to provide for an orderly classification of various types of industrial establishments based on operational characteristics, space needs, transportation needs, compatibility with the natural and built environment, and similar factors.

Sec. 24.1-351. IL-Limited industrial district.

(a) *Statement of intent*. The IL district is intended to provide opportunities for a wide variety of light manufacturing, fabricating, assembling, processing, wholesale distributing, and warehousing uses in areas designated for limited industrial development by the comprehensive plan. In order to preserve land for these industrial activities, to reduce extraneous traffic, and to avoid future conflicts between industry and other uses, permitted commercial activities are limited primarily to business and industrial parks and to those activities which will be useful to employees in the district and compatible with and complementary to the permitted types of industrial activities.

(b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

IL-LIMITED INDUSTRIAL DISTRICT

Use Classification	Minimum Lot Requirements[1]		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf	100'	45'	10'	10'	60'

[1] These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.

Minimum district size: none

NOTE:
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(c) *Special requirements*.

(1) Outdoor storage of goods or materials shall:

a. not be permitted in any front yard area;

b. not encroach upon any required landscaping;

c. not encroach upon any required parking or loading space;

d. be screened from public rights-of-way or adjoining properties which are not zoned or used for industrial purposes.

(2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:

a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;

b. shall not encroach upon any required parking or loading space;

c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and

d. shall not cause injury or harm or reduce the viability of any required landscaping.

(3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted provided that such use shall be clearly accessory and incidental to the principal use of the property and that such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from adjacent properties by fencing and/or landscaping.

(Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-352. IG-General industrial district.

(a) *Statement of intent*.

The IG district is intended to provide opportunities for a wide variety of industrial activities whose operations and characteristics may necessarily involve levels of odor, noise, vibration, traffic and other conditions having the potential to adversely impact surrounding land uses. In order to preserve land for these industrial activities, to reduce extraneous traffic, and to avoid future conflicts between industry and other permitted uses, commercial activities are limited primarily to business and industrial parks and to those uses which are compatible with and complementary to the permitted types of industrial activities.

(b) *Dimensional standards.*

Each lot created or used shall be subject to the following dimensional standards:

IG-GENERAL INDUSTRIAL DISTRICT

Use Classification	Minimum Lot Requirements[1]		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	30,000 sf 2800m^2	125' 37.5m	50' 15m	15' 4.5m	15' 4.5m	75' 22.5m

[1] These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.

Minimum district size: none

NOTE:
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

(c) *Special requirements*.

(1) Outdoor storage of goods or materials shall not:

a. encroach upon any required landscaping;

b. encroach upon any required parking or loading spaces.

(2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:

a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;

b. shall not encroach upon any required parking or loading space;

c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale;

d. shall not cause injury or harm or reduce viability of any required landscaping.

(3) All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, or noise, vibration, heat, glare, solid or liquid wastes, fire or explosion.

(4) Service drives or other areas shall be provided for off-street loading in such a way that, in the process of loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any fire lane or other public or private drive or street used for circulation.

(5) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for storage purposes in conjunction with a principal permitted use shall be permitted provided that such use shall be clearly accessory and incidental to the principal use of the property and that such trailer shall not be visible from any adjacent right-of-way.

Secs. 24.1-353—24.1-359. Reserved.

DIVISION 6. PLANNED DEVELOPMENT DISTRICT

Sec. 24.1-360. Purpose of planned development districts.

The purpose of the planned development districts established by this chapter is to encourage a more efficient use of land and public services by allowing a more flexible means of development than is otherwise possible under typical lot-by-lot or cluster zoning restrictions. Further, this district provides opportunities for development which reduces land consumption, reduces the amount of land devoted to streets and other impervious surfaces, provides increased amounts of open space and recreational amenities, and encourages creativity and innovation in design, all of which could serve to enhance the quality of life and to reduce the tax burden on the citizens of the county. The planned development districts provide flexibility both in design and use parameters. Two types of Planned Development Districts are available: the PDR – Planned Development – Residential district and the PDMU – Planned Development – Mixed Use district.
(Ord. No. 07-7, 5/15/07)

Sec. 24.1-361. PDR-Planned development – residential district.

(a) *Statement of intent*. The PD – Residential district is established to encourage innovative and creative design and to facilitate use of the most advantageous construction techniques in the development of land for a variety of compatible land uses. Specifically, the district is intended to:

(1) ensure ample provision and efficient use of open space;

(2) promote high standards in the layout, design and construction of development;

(3) promote development of superior projects or communities; and

(4) achieve a mixture of uses and types of uses when appropriate.

In addition, in accordance with the objective of the board to promote and encourage a more moderately-priced single-family detached housing product within the county, the planned development – residential district is intended to provide opportunities, through application of the affordable housing incentive provisions set forth herein, for the consideration of project proposals having a less extensive open space, recreation space, and amenities package, but which offer cost-containment measures which may not be otherwise available.

(b) *Application of district designation*. A PDR district may be located within any of the areas of the county designated for residential uses by the comprehensive plan subject to establishment in accordance with the procedures set forth in this section. In addition, PDR applications proposing senior housing, exclusively, may be considered in areas designated for commercial uses by the comprehensive plan.

(c) *Permitted land uses*. The land uses within any planned development shall be substantially in accordance with the land use designation in the comprehensive plan. Subject to specific authorization by the board, the following land uses shall be permitted:

(1) Dwellings: single-family detached, attached, or multi-family including mixtures thereof.

(2) Senior Housing, as defined in this chapter (i.e., Independent Living, Congregate Care, Assisted Living, or Continuing Care Retirement Communities) and in accordance with the performance standards established in Section 24.1-411 unless specifically modified by the board at the time of approval of the proposed development.

(3) Public and semi-public uses such as churches, schools, offices, libraries, fire stations, parks, playgrounds, golf courses, swimming pools, tennis courts, recreational marinas, community centers, and similar types of uses.

(4) Commercial and retail uses which are designed, located and scaled in proportion to the overall size of the planned development and located so as to be internally-oriented. Unless otherwise authorized by the board of supervisors at the time of PDR approval, commercial uses shall be limited to those allowed either as a matter of right or by special use permit in the NB and LB zoning districts. Any use indicated in the NB or LB district as requiring a Special Use Permit shall require the same in a PDR district unless the use is specifically authorized in the initial PDR approval.

(5) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the uses permitted above.

(d) *General dimensional, density and design requirements*.

(1) All development within the PDR district shall be served by public water and public sewer systems.

(2) The minimum area of any tract, or combination of contiguous tracts, of land proposed for development as a PDR shall be five (5) acres. Additional adjoining acreage may be added to an approved PDR provided that all procedures applicable to the creation of such a district are observed.

(3) The maximum development density for a PDR development shall be generally consistent with the density envisioned by the adopted comprehensive plan for the area in which located. The board may, however, approve density increases as a part of the PDR approval and, in the case of Senior Housing developments, may consider density allowances of up to twenty (20) units per acre.

(4) The following dimensional standards shall be observed unless specifically modified by the board (either upwards or downwards) at the time of district approval:

a. Minimum lot area: none

b. Minimum lot width:

1. single-family detached: forty-five feet (45')

2. single-family attached: twenty feet (20')

3. non-residential: seventy feet (70')

c. Minimum yard requirements:

1. The minimum distance between any two principal buildings or structures shall be twenty feet (20'), except in senior housing developments where it shall be thirty (30) feet;

2. The minimum distance between any principal building and an accessory building, or between any two accessory buildings, shall be ten feet (10').

3. The minimum distance between any principal or accessory building and any public or private street right-of-way or common area boundary line shall be thirty feet (30').

4. The minimum setback from any external property line shall be twenty feet (20').

d. Maximum building height:

1. Residential structures shall not exceed forty feet (40').

2. Non-residential structures shall not exceed fifty feet (50').

(5) The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to the existing or prospective development of the neighborhood.

(e) *Open space and recreation area requirements.*

(1) Unless specifically excepted in accordance with the criteria established in section 24.1-361, a minimum of twenty-five percent (25%) of the total gross area of any PDR development shall be reserved as open space designed and improved or maintained for use by those who live or work within the development or other persons or groups as the property owners association may allow. Golf courses may be counted as open space for the purpose of meeting this requirement up to a maximum of thirty percent (30%) of the required residential area open space.

(2) Unless specifically excepted in accordance with the criteria established in section 24.1-361(g), an area equal to a minimum of ten percent (10%) of the total gross area of the residential portions of any PDR development shall be reserved and developed specifically as a recreation area, or areas, set aside for the common use of the residents of the planned development. The required recreation space shall be considered part of the twenty-five percent (25%) open space reservation required in subsection (e)(1), above.

(3) Unless otherwise excepted by the board, recreation areas shall be provided in accordance with the following standards and such others as the board deems appropriate:

a. The recreation area reserved shall be in one centrally located contiguous parcel and be suitable to accommodate a combination of active and passive recreational activities appropriate for the residents of the development. However, depending upon the size and scope of the development, recreation areas may be set aside in two or more parcels in order to improve the accessibility of such recreation areas from all housing units in the development.

b. The recreation area shall be easily and safely accessible by pedestrians and bicyclists from all areas of the development to be served, shall have good ingress and egress, including separate pedestrian and bicycle accommodations, and shall have adequate frontage on a platted road; however, no platted road shall traverse the recreation area.

c. The recreation area reserved shall be located so that essential utilities including water, public sewage, and power will be easily accessible to serve planned and potential future recreational facility development.

d. The recreation area shall be free of fuel, power, or other transmission lines and rights-of-way.

e. At a minimum and unless the market orientation (as evidenced by restrictive covenants or other document deemed sufficient by the board) clearly dictates otherwise, the following "core recreation facilities" shall be constructed:

1. *Swimming pool*: to be configured to permit both recreational and competitive (25 or 50 meters in length, minimum depth of 1.25 meters in lanes) swimming with associated restroom facilities, deck area, and adjacent fenced-in grassy open space usable for sunbathing, volleyball, etc. The minimum size

of the required swimming pool shall be related to the number of dwelling units in the development proposal as set forth in the table below:

DWELLING UNITS	WATER SURFACE AREA	FENCED-IN GRASSY OPEN SPACE	PARKING SPACES
200-399	3,500 ft^2	17,500 ft^2	30
400-599	4,000 ft^2	22,500 ft^2	35
600-799	4,500 ft^2	27,500 ft^2	40
800-999	5,000 ft^2	32,500 ft^2	45
1,000+	5,000 ft^2 plus 5 ft^2/dwelling unit in excess of 999.	32,500 ft^2 plus 30 ft^2/dwelling unit in excess of 999.	45 plus 1 space/15 dwelling units in excess of 999.

2. *Tennis courts*: two (2), all-weather hard surface, fenced and color coated.

3. *Playground and picnic facility*: combined facility

4. *Multi-purpose activity field*: open grassy area, minimum one (1) acre, generally rectangular in shape, graded on a true plane at one to two percent (1-2%)

5. *Pedestrian and bicycle facilities* which provide safe and convenient circulation to the recreation area from throughout the community and including appropriate bicycle parking accommodations.

f. Other recreational facilities offering the same or greater recreational and fitness value may be proposed in lieu of the above.

g. In approving a PD, the board may require that additional facilities be provided for the residents of the community.

(4) With approval of the board, the minimum amount of land required for recreation area may be reduced in order to compensate for reservation of waterfront property which has added recreational value, provided, however, that the recreational value of the waterfront property must, in the opinion of the board, be at least equal to the recreational value of non-waterfront land (meeting all of the above standards) which could have otherwise been set aside for a recreation area. In this regard, recreation acreage reduction is not to be granted based on the size or value of the water body, but on the recreational value of the waterfront property itself. No more than a twenty-five percent (25%) reduction may be granted for waterfront property.

(5) Common open space (including the recreation area) as required above shall be protected by appropriate restrictions or other methods, developed in accordance with the provisions established in article IV-division 17 of this chapter, and designed to ensure perpetuation and maintenance.

(f) *Special design requirements.*

(1) To the extent that streets are private rather than public, the developer shall submit assurances satisfactory to the board that a properly constituted property owners association will be responsible for the perpetuation and maintenance of such streets. Such assurances shall be developed in accordance with the provisions of article IV-division 17 of this chapter.

(2) Private streets shall be designed and constructed in accordance with the criteria prescribed by the Virginia Department of Transportation for the particular functional classification of the street, or, in the event the developer proposes an alternate design, to such other specifications as are approved for use by the board in consideration of the anticipated function and character of such street.

(3) The entire development shall be served by safe and convenient pedestrian and bicycle facilities which form a logical circulation system and have connections to planned, or anticipated facilities outside the development.

(4) The board may impose such other conditions as it deems necessary on any development proposed under the terms of this section in recognition of any unique circumstances surrounding the particular proposal or the area in which it is proposed, and in order to ensure the protection of the health, safety and general welfare of the public and the preservation of property values.

(g) *Affordable housing incentive provisions*. In recognition of the objectives established in the comprehensive plan with respect to promotion and encouragement of a more moderately-priced single-family housing product, the following standards and criteria, to be known as the "Affordable Housing Incentive Provisions," are hereby established:

(1) Where a developer proposes the construction of a planned development project, all or a portion of which will consist primarily of detached dwelling units approved by the board in recognition of their potential for price moderation (i.e., below market average prices) such project may be submitted for consideration by the commission and the board in accordance with the following minimum design criteria, notwithstanding any provisions to the contrary set forth elsewhere in the PDR regulations:

a. Where the individual residential lots within a planned development are proposed to be at least seven thousand five hundred (7,500) square feet in area, the twenty-five percent (25%) common open space and recreation space ratio otherwise required herein may be reduced or eliminated upon recommendation of the commission and subject to approval by the board. Where individual lots are proposed to consist of less than seven thousand five hundred (7,500) square feet in area, common open space and recreation space shall be provided within the development at a minimum ratio of four hundred (400) square feet per lot.

b. Where required common open space is reduced or eliminated by virtue of all the lots being at least seven thousand five hundred (7,500) square feet in area, as permitted above, there shall be no requirement for reservation and development of specifically designated recreation space.

c. Where common open space is required to be provided, a minimum of two hundred (200) square feet per lot shall be contained in a designated recreation space designed generally in accordance with the terms of section 24.1-361(e)(3), however, the specific requirements for core facilities shall be waived.

(2) In accordance with the affordability objective of these provisions, the maximum floor area of single-family detached dwelling units proposed for construction shall not exceed one thousand two hundred (1,200) square feet of living space unless, however, the board specifically approves a greater maximum floor area in recognition of evidence of equivalent price-containment features or characteristics. This maximum living space floor area standard shall not be deemed to preclude future owner-initiated improvements or additions provided that such additions are constructed in accordance with all applicable minimum yard and setback requirements. For the purposes of this section, garages shall not be considered as finished living space.

(3) The maximum ratio of living space floor area to lot area for housing units proposed under these affordable housing provisions shall be sixteen percent (16%) unless a greater ratio is specifically authorized by the board of supervisors.

(4) The developer's intent to limit the project to more affordable, as determined by the board, single-family detached dwelling units, or such other dwelling units as may be approved by the board, shall be evidenced by submission of proposed restrictive covenants to that effect at the time of application for approval of a project in accordance with the affordable housing incentive provisions. Such covenants shall be approved by the board after having been reviewed and approved by the county attorney with respect to form. Such covenants shall be recorded at the time of final plat recordation.

(5) All developments constructed under these provisions shall be served by public streets and utilities.

(6) The entire development shall be served by safe and convenient pedestrian and bicycle facilities forming a logical circulation system and shall be designed to accommodate public transit

buses and other public transportation conveyances as may be deemed appropriate by the board.

(h) *Standards for nonresidential uses within the PDR district*.

(1) In reviewing the nonresidential portions of a PDR, the board shall determine that those sections have been designed to promote harmonious relationships with surrounding, adjacent, and nearby properties, especially those external to the PDS. To this end, special consideration should be given to landscaping and buffering which promotes a park-like character.

(2) Nonresidential portions of a PDR which are located adjacent to property external to the development shall have a Transitional Buffer established along the external property line based on the uses to be established thereon. This shall be based on the least intensive zoning district in which the subject use is permitted as a matter of right. At a minimum, a landscaped infiltration yard shall be established along the external property line. The infiltration yard shall be no less than twenty feet (20') in width if adjacent to a street right-of-way or ten feet (10') in width elsewhere.

(3) In general, the design standards of the LB district shall be utilized for non-residential portions of a PDR where the underlying land use designation in the comprehensive plan is residential or conservation. The board shall evaluate the appropriateness of those design standards at the time of approval of a PDR and may modify or supplement them as deemed appropriate.

(4) To promote a park-like character within the nonresidential portions of the development, particular care should be taken to organize the landscaping plan to maximize the visual effects of green spaces. Appropriate means shall be used to screen surrounding residential areas from undesirable views into the commercial portions of the development park and, conversely, to screen development within the PDR from any undesirable external exposures. In particular, all service and loading areas shall be screened from view from public streets and, insofar as reasonably possible, parking areas for more than ten (10) automobiles shall be similarly screened from view by landscaping, decorative fencing, walls, berms, or relation to buildings.

(5) The circulation system and building orientation shall be designed to emphasize and facilitate the pedestrian, bicycle, and transit modes of transportation.

(6) The board may impose such other conditions as it deems necessary under the terms of the section in recognition of the unique circumstances surrounding the particular proposal or the area in which it is proposed, and in order to ensure the protection of the health, safety, and general welfare of the public and the preservation of property values.

(Ord. No. 03-25, 6/17/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 07-7, 5/15/07)

Sec. 24.1-361.1. PDMU – Planned development mixed use district

(a) Statement of intent – the purpose of the PDMU district is to provide opportunities for developments containing an integrated, comprehensively planned and designed mix of business, retail, cultural, residential and other appropriate uses. Mixed-use development proposals should address the following objectives:

- Provide more efficient use of land through the accommodation of increased densities and intensities of use within a concentrated area;
- Create a walkable, pedestrian-friendly environment that increases community vitality;
- Reduce vehicular trips and reliance on the automobile by providing a mix of shopping, office, cultural, recreational and residential opportunities within walking distance of one another;
- Include an internal “main street” (or streets) along which commercial opportunities are oriented to a streetside sidewalk rather than a parking field, thus preventing the automobile from dominating the project while enhancing the pedestrian experience;
- Create an appropriately balanced mix of residential and non-residential uses that respects the underlying policies land use designations of the Comprehensive Plan;

- Provide alternative housing choices and opportunities
- Create a "landmark" place through the application of superior design elements and a common or complementary design theme;

(b) *Application of district designation*. A PDMU district may be located within any of the areas of the county identified for mixed-use development by the comprehensive plan, subject to establishment in accordance with the procedures set forth in this section. Such areas are identified generally by designations on the comprehensive plan maps and their boundaries are not absolute or property line specific.

(c) *Permitted land uses*. Subject to specific authorization by the board, the following land uses shall be permitted within a PDMU district development:

(1) Commercial uses shall be limited to those allowed either as a matter of right or by special use permit in the NB, LB and GB zoning districts, with the exception of those uses listed below, which shall be prohibited. Any use indicated in the NB, LB or GB district as requiring a Special Use Permit shall require the same in a PDMU district unless the use is specifically authorized in the initial PDMU approval. The following uses shall be prohibited in a PDMU:

a. Plant Nursery/Greenhouse
b. Correctional facility
c. Firing range/indoor
d. Golf driving range
e. Campgrounds
f. Lumberyard/building materials
g. Auto parts/accessories
h. Second hand/used merchandise w/ outside display or storage
i. Storage shed/utility building sales/display
j. Fortune teller/pawn shop/tattoo parlor
k. Small engine repair
l. Tools, household equipment, lawn and garden equipment rental
m. Car wash
n. Auto repair garage
o. Auto/truck sales, service, rental
p. Heavy truck sales, service, rental
q. Farm equipment sales, service, rental
r. Manufactured home sales, service, rental
s. Boat sales, service, rental
t. Heliport
u. RV storage facility
v. Wholesale auction establishment
w. Warehousing
x. Wholesale trade establishment
y. Mini-storage warehouses
z. Contractor's shops
aa. Machine shops/fabricators
bb. Window and auto glass sales/installation
cc. Recycling center

(2) Dwellings: single-family detached, attached, or multi-family including mixtures thereof. Unless specifically excepted by the board of supervisors based on a superior design proposal, not more than 25% of the total number of dwelling units shall be single-family detached. Unless specifically excepted by the board of supervisors based on a superior design proposal, at least 40% of the dwelling units shall be located in buildings that have ground-floor, pedestrian-oriented commercial, office or civic space. In order to ensure diversity in the demographic characteristics of the mixed-use project, not more than 20% of the dwelling units may be restricted as senior housing.

(3) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the permitted principal uses.

(d) *General dimensional, density and design requirements*.

(1) All development within the PDMU district shall be served by public water and public sewer systems.

(2) The minimum area of any tract, or combination of contiguous tracts, of land proposed for development as a PDMU project shall be as follows:

Minor PDMU – ten (10) acres**.**

Major PDMU – fifty (50) acres;

Additional adjoining acreage may be added to an approved PDMU development provided that all procedures applicable to the creation of such a district are observed.

(3) The intensity and density of development within a PDMU project shall be consistent with the following standards, unless specifically modified by the board of supervisors at the time of district approval:

Minor PDMU

Minimum amount of commercial/office/civic/institutional (i.e. non-residential) floor area:

Shall be determined on a case-by-case basis in consideration of the character of the property and its surroundings, the suitability and potential of the property for intensive commercial use if not developed as a mixed-use project, and such other factors as the board of supervisors deems appropriate. As a guideline, project proposals should be developed with the objective of providing at least 1,000 square feet of non-residential floor area per acre of developable land.

Maximum number of dwelling units:

Shall be determined on a case by case basis in consideration of the character of the property and its surroundings, the anticipated fiscal and service impact of the project, and such other factors as the board of supervisors deems appropriate. As a guideline, project proposals should be developed with a residential density target not to exceed 10 dwelling units per acre of developable land.

Construction within the Minor PDMU development shall be sequenced in accordance with a project build-out schedule conceived by the project developer, submitted for review as a part of the initial application, and approved by the board of supervisors. The purpose of such development schedule shall be to provide assurance to the board of supervisors that the project will, in fact, include both the proposed non-residential and residential elements at certain project milestones and/or at build-out.

Major PDMU

Minimum amount of commercial/office/civic/institutional (i.e. non-residential) floor area:

Shall be determined on a case-by-case basis in consideration of the character of the property and its surroundings, the suitability and potential of the property for intensive commercial use if not developed as a mixed-use project, and such other factors as the board of supervisors deems appropriate. As a guideline, project proposals should be developed with the objective of providing at least 800 square feet of non-residential floor area per acre of developable land.

Maximum number of dwelling units:

Shall be determined on a case by case basis in consideration of the character of the property and its surroundings, the anticipated fiscal and service impact of the project, and such other factors as the board of supervisors deems appropriate. As a guideline, project proposals should be developed with a residential density target not to exceed one (1) dwelling unit for every 400 square feet of non-residential floor area.

Construction within the Major PDMU development shall be sequenced in accordance with a project build-out schedule conceived by the project developer, submitted for review as a part of the initial application, and approved by the board of supervisors. The purpose of such development schedule shall be to provide assurance to the board of supervisors that the project will, in fact, include both the proposed non-residential and residential elements at certain project milestones and/or at build-out. As a guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the board of supervisors:

- Up to 20% of the residential units may be constructed prior to commencing any commercial construction; and
- Construction of the next 40% of the residential units shall be sequenced in conjunction with construction of at least 40% of the commercial space; and
- Prior to issuance of Building Permits for construction of the final 20% of the residential units at least 80% of the commercial space shall have been completed to the stage that it is ready for individual tenant fit-out and customization.

(4) The following dimensional standards shall be observed unless specifically modified by the board (either upwards or downwards) at the time of district approval:

a. Minimum lot area: none

b. Minimum lot width: none

c. Minimum yard requirements:

1. The minimum setback from any external property line shall be twenty feet (20').

2. The minimum setback from any external street (i.e., a street that pre-existed the development and that is not incorporated as part of the development) shall be fifty feet (50').

d. Setback requirements:

1. Non-residential structures and all residential structures except single family detached dwellings and single family attached units with garages shall be constructed with a maximum front setback of ten feet (10') from any internal street right-of-way line or from the inside edge of a public sidewalk along a street, whichever is less. Any area between the building façade and the inside edge of a public sidewalk shall be improved with an enlarged pedestrian area, street furniture, landscaping or similar treatments to enhance the appearance of the streetscape.

2. Single-family detached structures and single family attached structures with garages shall be constructed with a maximum front setback of twenty feet (20') from any internal street right-of-way line. Such area, except for paved driveways, shall be landscaped and shall not be used for vehicular parking.

e. Maximum building height:

1. Single-family detached and attached residential structures shall not exceed forty feet (40') in height.

2. Multi-family residential structures, or structures housing both residential and non-residential uses, shall not exceed four (4) stories in height.

3. Non-residential structures shall not exceed sixty feet (60') in height or the maximum height permitted by the pre-existing zoning classification, whichever is greater.

(e) Design and layout.

(1) The mixed-use development should be designed with a town center, village square, village green or other public space or central design element that provides a focal point around which the project is designed and oriented.

(2) Streets within the mixed-use development should be designed and oriented to create or complement the “town center” arrangement. Orientation of streets to promote views of or to lead one to or by natural features, public open spaces, significant buildings, etc. is also encouraged.

(3) Ground floor street/sidewalk frontage in the “town center/village square” area of a mixed-use development shall be predominantly retail. Mixtures of retail, office, civic, institutional and residential may occur on the ground floor along building faces that do not front on the “town center/village square.”

(4) Parking lots within the “town center/village square” area shall be located at the rear of buildings. Parallel or angled parking arrangements are acceptable along “town center/village square” streets provided that pedestrian accommodations, both parallel and crossing, are maintained.

(5) Non-residential building entrances should face the street, but may be located off passageways through or between buildings on the block provided the passageway entrance is clearly accessible and visible from the street.

(6) Walls, fences and landscaping shall be employed to improve the visual environment and to define street, pedestrian and public spaces edges. Such features shall also be used to conceal undesirable views into parking and service areas.

(f) Architectural considerations

(1) Buildings shall be designed to include appropriate architectural features and elements that minimize size and mass and that create a scale and character to complement the pedestrian orientation of the mixed-use development. Appropriate techniques include wall plane and roofline articulation, bays, balconies, porches, canopies, arcades, etc. The maximum total “bland wall” (i.e., without windows or entrances) may not exceed 30% of the total street-level facade

(2) Buildings should be designed and oriented to have their narrow façade facing the street.

(3) Building materials and finishes shall be selected with an objective of achieving quality and durability. A proposed design guidelines manual and palette of building materials shall be presented with the application for PDMU approval and, subject to approval by the board of supervisors, shall serve as the architectural performance standards for the proposed development. Although no single architectural style or theme is mandated by the PDMU district, it is expected that the developer’s architectural performance standards will be sufficient to establish a distinct and quality character and image for the project.

(4) Buildings should have a varied character of traditionally shaped roofs. Gabled or hipped roofs are preferred. Flat roofs are acceptable if enhanced by parapets, cornices or other treatments.

(5) Building designs and finishes shall incorporate 360-degree architecture to ensure that a quality appearance is presented on all building faces visible to the public or to adjoining property owners.

(6) Pedestrian areas shall incorporate a variety of paving treatments such as colored or stamped concrete, stone or brick pavers, etc. to identify and visually enhance sidewalks, intersections and pedestrian crossings.

(7) Signs shall be permitted in accordance with the provisions applicable to LB-Limited Business zoning districts provided, however, that the application for PD approval shall include a comprehensive sign design standards/pattern guide. Such submission shall be subject to review and approval by the board in conjunction with action on the overall development concept.

(g) *Open space and recreation area requirements.*

(1) A minimum of ten percent (10%) of the total gross area of any PDMU development shall be reserved as open space designed and improved or maintained for use by those who live or work within the development or such other persons or groups as the property owners association may allow. Such space shall be arranged in one or more centrally-located green space areas, a central "town square" or similar areas that serve as both visual and activity focal points for the development.

(2) One or more recreation areas or facilities shall be incorporated into the development for the common use of the residents. Depending on the type and market orientation of the residential units within the development, such recreational areas or facilities may include active or passive, indoor or outdoor activities./facilities. The development concept plan and community impact study shall depict the proposed recreational facilities and document their appropriateness and adequacy, respectively.

(3) Common open space (including the recreation area) as required above shall be protected by appropriate restrictions or other methods, developed in accordance with the provisions established in article IV-division 17 of this chapter, and designed to ensure perpetuation and maintenance.

(h) *Special design requirements.*

(1) To the extent that streets are private rather than public, the developer shall submit assurances satisfactory to the board that a properly constituted property owners association will be responsible for the perpetuation and maintenance of such streets. Such assurances shall be developed in accordance with the provisions of article IV-division 17 of this chapter.

(2) Private streets shall be designed and constructed in accordance with the criteria prescribed by the Virginia Department of Transportation for the particular functional classification of the street, or, in the event the developer proposes an alternate design, to such other specifications as are approved for use by the board in consideration of the anticipated function and character of such street.

(3) The uses within the mixed-use development shall be served by on-street and off-street parking facilities that are sufficient to accommodate the project cumulative demand of the development as demonstrated by a parking analysis which shall be prepared and submitted as part of the PDMU application package. Such parking plan shall incorporate a series of common parking lots interspersed throughout the development. The calculation of parking demand shall be based on the following ratios, provided however, that lesser ratios may be approved by the board based upon documentation provided by a qualified parking demand consultant indicating that fewer parking spaces will be adequate due to the particular characteristics of the development:

Retail shops-minimum:	4 spaces per 1,000 square feet of gross floor area
Retail shops – maximum:	5 spaces per 1,000 square feet of gross floor area

Restaurant – minimum:	10 spaces per 1,000 square feet of gross floor area
Restaurant – maximum:	12 spaces per 1,000
Office uses – minimum:	3 spaces per 1,000
Office uses – maximum:	4 spaces per 1,000

(4) The board may impose such other conditions as it deems necessary on any development proposed under the terms of this section in recognition of any unique circumstances surrounding the particular proposal or the area in which it is proposed, and in order to ensure the protection of the health, safety and general welfare of the public and the preservation of property values.

(Ord. No. 07-7, 5/15/07)

Sec. 24.1-362. Procedure for establishment of the planned development districts.

Planned development districts may be established only through an amendment of the zoning map in accordance with the procedures for amendment prescribed in article I and as follows:

(a) *Conceptual Discussion Phase (Optional)* – The prospective developer of a mixed-use project may request that the project concept be scheduled for discussion by the planning commission and board of supervisors with the objective of obtaining guidance as to the feasibility and acceptability of the project. For the purposes of this preliminary discussion, the developer need not prepare all of the material required for a Phase I submission but should be aware that the planning commission and board of supervisors will be unable to provide meaningful guidance without benefit of a considerable amount of conceptual information about the project. The developer must also understand that proceeding through this process will consume approximately ninety (90) days and that any comments or guidance with respect to the project and/or any alternative development parameters will be informal and non-binding as to the board's ultimate action in the event the developer decides to proceed with a Phase I submission and formal application.

(b) *Phase I - Overall development master plan and petition for reclassification of property*. The purpose of the overall development master plan is to allow consideration and establishment of the general arrangement of land uses within a proposed planned development as well as the maximum allowable development density and other design parameters and to allow evaluation of the probable impacts, both on-site and off-site, of the proposed development.

(1) A community impact assessment shall be submitted along with the overall development master plan which shall analyze in specific terms the probable impact of the project on the community over time. The assessment shall include, but not be limited to, reports on: the projected fiscal/economic impact of the proposed development (and including a projection of the potential fiscal impact of a by-right development on the subject property); population projections; school enrollment and capacity analyses; parks and recreation activities and needs; fire, rescue and law enforcement services impacts; water, sewer, and stormwater management demands; traffic engineering analysis of projected traffic generation and the impacts on existing and proposed road systems; and, environmental impacts. The zoning administrator may waive certain elements of the community impact assessment where the nature of the proposed development makes such elements inapplicable.

(2) Twenty (20) paper copies (plus legible 11" x 17" reductions of each sheet) of an overall development master plan prepared in accordance with good planning practice, shall be submitted. In addition to an overall site layout plan, the Master Plan submission shall include conceptual information on streets, circulation and parking, open space and recreation amenities, utilities, particularly any stormwater management ponds, landscaping and pedestrian circulation, and, renderings of all major buildings or building types. Prior to formal preparation of an overall development master plan, the owner or developer is encouraged to meet with the zoning administrator to discuss the project proposal and to become familiar with the policies of the board and the procedures and requirements established herein. Depending upon the nature and scope of the development proposal, such meeting should also include representatives from other appropriate review agencies and departments such as, but not limited to, the Virginia Department of Transportation, planning division, economic development office, department of environmental and development services, department of fire and life safety and the department of community services.

(3) In addition to the overall development master plan, the applicant shall submit a petition for amendment of the zoning map in accordance with the requirements and procedures for amendment as established in article I.

(4) Upon a determination by the zoning administrator that the content of the overall development master plan is sufficient for a decision to be rendered by the commission and board, the plan shall be transmitted to the commission and concurrently submitted for review and comment to appropriate county, state and federal agencies and departments. To the extent possible, reviewing agencies' comments will be transmitted to the commission within sixty (60) days at which time the commission will first consider the application.

(5) The commission shall review the submission in accordance with the public notice and hearing requirements prescribed in article I. The commission, in its recommendation to the board, shall specifically address the following:

a. The relationship of the proposed development to the comprehensive plan and other established development policy guidelines;

b. The relationship of the proposed development to the community in which it is proposed to be established;

c. The manner in which the plan does or does not make adequate provision for public services, provide adequate control over vehicular traffic and provide for the amenities of light and air, recreation, and a pleasant visual environment;

d. The nature and extent of common open space in the proposed development and the reliability of the proposals for guaranteeing perpetual maintenance;

e. The appropriateness of the development density in relation to the comprehensive plan and, in the case of mixed-use projects, the appropriateness of the ratio of residential to non-residential uses, proposed for the development.

f. The compatibility of the proposal with the objectives set forth in the statements of intent for the PDR or PDMU districts.

(6) In the event the overall development master plan is approved, or approved subject to modification, the board shall establish, by ordinance, a PDR or PDMU district in the area encompassed. Such ordinance shall establish and specify such minimum and maximum design parameters as the board may deem appropriate, and may include such other conditions and requirements as the board determines necessary.

(7) In the event the overall development master plan is disapproved by the board, the application for reclassification shall thereby be deemed to be denied.

(8) If, during the course of required reviews by the commission or board, the applicant proposes revisions or modifications to the overall development master plan which are of such magnitude and extent as to substantially change the development concept, as determined by the zoning administrator, said modifications shall cause the revised overall development master plan to be referred back through the required review and hearing procedures as if it were an original submission.

(c) *Phase II - Final subdivision and site plan*.

(1) The approval of a reclassification application to a PDR or PDMU district, and the approval of the accompanying overall development master plan by the board, shall constitute authority for the applicant to prepare one (1) or more final subdivision or site plans. Such plans shall be prepared in accordance with the approved overall development master plan and all applicable provisions of the subdivision ordinance and the site plan provisions established in article V of this chapter.

(2) Separate subdivision or site plans shall be submitted for each development stage or section as set forth in the approved overall development master plan or as approved as a logical phase/section by the zoning administrator. Such plans shall include, as an attachment, cop-

ies of all charters, covenants, restrictions and other instruments pertaining to the use, maintenance, operation and control of all common open space areas or other common facilities within the development. Such documents shall have been developed in accordance with the provisions established in article IV, division 17 of this chapter.

(3) All common and public improvements within the PDR or PDMU district shall be subject to performance agreements and surety requirements as with any development. In addition, those common improvements which generally constitute the "amenity package" for a PDR or PDMU district including, without limitation, the common open space and recreational facilities, but also including additional landscaping, open areas, maintenance facilities and equipment, water bodies, trails, sidewalks, pathways and any other materially similar item as determined by the zoning administrator shall be physically installed and completed prior to or concurrently with any abutting or adjacent building, whether residential or non-residential.

(4) In the event recreational areas or facilities to benefit the residents/property owners/occupants of the development are required, such areas/facilities shall be completed, available for use and enjoyment of the residents, and in the possession of the property owners association prior to the earlier of:

a. thirty-five percent (35%) of the residential units or lots authorized being platted or approved for construction; or

b. five (5) years after the date that the first residential units were platted or approved for construction.

The zoning administrator shall require such performance agreements and surety as deemed necessary to guarantee the property owner(s) within the PDR or PDMU district that the facilities will be available, regardless of the financial circumstances of the developer at the time set for completion. This shall not be interpreted to supersede the requirement established in paragraph (3) above that common improvements be physically installed and completed prior to or concurrently with the construction of any abutting or adjacent buildings.

(5) Limited deviations from the approved overall development master plan may be authorized by the zoning administrator when such deviations are determined to be necessary because of topography; drainage; structural safety; vehicular, pedestrian, or bicycle safety; or other extenuating circumstances, and provided that such deviations will not:

a. increase development density; materially alter points of access; decrease the amount of open space; increase the amount of impervious surface area; materially alter the drainage and stormwater management system;

b. materially alter recreational amenities; materially change the market orientation of the development; demonstrably and negatively affect the visual appearance of the development as viewed from adjacent properties or public roads;

c. materially alter the character of the approved overall development master plan; or,

d. be contrary to the legislative intent of the board in approving said overall development master plan.

(6) When the zoning administrator grants a limited deviation, a written record of the decision shall be made describing the request, the decision, and the factors contributing to the decision. Copies of the written record shall be forwarded to the commission and board for information purposes.

(7) Any proposed adjustment or revision other than those authorized above, as determined by the zoning administrator, shall not be approved without amendment of the overall development master plan in accordance with the same procedures and time limitations specified for initial submission.

(Ord. No. 07-7, 5/15/07)

Secs. 24.1-363—24.1-369. Reserved.

DIVISION 7. OVERLAY DISTRICTS

Sec. 24.1-370. Purpose of overlay districts.

The regulations established herein are designed to supplement, or "overlay," the requirements and provisions established for the zoning district in which located. All requirements of the underlying zoning district shall remain applicable unless specifically modified by the provisions established herein.

Sec. 24.1-371. ASM-Airport safety management overlay district.

(a) *Statement of intent*. In accordance with the objectives of the adopted comprehensive plan and with the laws of the Commonwealth of Virginia, specifically section 15.2-2294, Code of Virginia, the Airport Safety Management Overlay regulations are intended to protect the public health, safety, and welfare by ensuring that development will occur in such a way as to cause no interference with civil or military air traffic over the county. The purpose of these provisions is to restrict the height of structures and objects of natural growth in the vicinity of any civil or military airport in the county or its environs. Specifically, these provisions are intended to apply to all areas of the county lying within or underneath an imaginary surface or surfaces surrounding any civil or military airport in accordance with the standards set forth in Part 77.25, 77.28, and 77.29, Subchapter C (Obstruction Standards), of Title 14 of the Code of Federal Regulations, or in successor federal regulations, and as shown on the airport safety zone map adopted by the county.

(b) *Applicability*. The special provisions established in this section shall apply to all areas designated by the county as airport safety zones in accordance with the standards set forth in Parts 77.25, 77.28, and 77.29, Subchapter C (Obstruction Standards) of Title 14 of the Code of Federal Regulations, or in successor federal regulations. Areas so designated are shown on the airport safety zone map adopted by the county.

(c) The following words and terms used in this section shall have the following meanings unless the context clearly indicates otherwise:

Airport. For the purposes of this section, civil airport shall refer to Newport News-Williamsburg International Airport, and military airport shall refer to Camp Peary Field and Langley Air Force Base.

Airport elevation. The established elevation of the highest point on any usable landing surface expressed in feet above mean sea level.

Airport safety zone. All of the area and airspace of the county lying equal to or above an approach surface, approach clearance surface, clear zone surface, conical surface, horizontal surface, inner horizontal surface, outer horizontal surface, primary surface, or transitional surface as they apply to civil and military airports in the county or its environs. These zones are established as overlay zones, superimposed upon the underlying zoning districts, that do not affect the uses and activities of the underlying zoning districts except as provided in this section. The specific airport safety zones are as follows:

Airport zone. A zone that is centered about the runway and primary surface of an airport. For a civil airport, the floor of the airport zone is set by the horizontal surface, and for a military airport it is set by the inner horizontal surface.

Approach zone. A zone that extends away from the end of the primary surface of an airport along the extended runway centerline, the floor of which is set by either the approach surface (for a civil airport) or the approach clearance surface (for a military airport).

Conical zone. A zone, the floor of which is set by the conical surface, that circles around the periphery of and outward from the horizontal surface of a civil airport or from the inner surface of a military airport.

Outer airport zone. A zone that is centered about the runway and primary surface of a military airport, the floor of which is set by the outer horizontal surface.

Transitional zone. A zone that fans away perpendicular to the runway centerline and approach surfaces, with the floor set by the transitional surfaces.

Approach clearance surface. For a military airport, an imaginary surface represented by an inclined plane, symmetrical about the runway centerline extended, beginning two hundred feet (200') beyond each end of the primary surface at the centerline elevation of the runway end and extending for fifty thousand feet (50,000'). The slope of the approach clearance surface is fifty to one (50:1) along the runway centerline extended until it reaches an elevation of five hundred feet (500') above the established airport elevation. It then continues horizontally at this elevation to a point fifty thousand feet (50,000') from the point of beginning. The width of this surface at the runway end is the same as the primary surface; it flares uniformly, and the width at fifty thousand feet (50,000') is sixteen thousand feet (16,000').

Approach surface. For a civil airport, an imaginary surface longitudinally centered on the extended runway centerline, extending upward and outward from the end of the primary surface at a slope of fifty to one (50:1) for a horizontal distance of ten thousand feet (10,000'), thereafter at a slope of forty to one (40:1) for an additional horizontal distance of forty thousand feet (40,000'). The inner edge of the approach surface is the same width as the primary surface, and it expands uniformly to a width of sixteen thousand feet (16,000').

Conical surface. For a civil airport, an imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000'). For a military airport, an imaginary surface extending outward and upward from the periphery of the inner horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of seven thousand feet (7,000') to a height of five hundred feet (500') above the established airfield elevation.

Hazard to air navigation. An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of navigable airspace in the Commonwealth.

Horizontal surface. An imaginary surface represented by a horizontal plane one hundred fifty feet (150') above the established airport elevation for any civil airport, the perimeter of which is constructed by swinging arcs of a 10,000-foot radius from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

Inner horizontal surface: An imaginary surface represented by a horizontal plane that is oval in shape at a height of one hundred fifty feet (150') above the established airfield elevation of any military airport. The plane is constructed by scribing an arc with a radius of seven thousand five hundred feet (7,500') about the centerline at the end of each runway and interconnecting these arcs with tangents.

Obstruction. Any structure, growth, or other object, including a mobile object, which exceeds the maximum height for the zone in which it is located as set forth in section 24-371(d) and as shown on the airport safety zone map.

Outer horizontal surface. An imaginary surface represented by a horizontal plane, located five hundred feet (500') above the established airfield elevation of any military airport, extending outward from the outer periphery of the conical surface for a horizontal distance of thirty thousand feet (30,000').

Primary surface. An imaginary surface longitudinally centered on a runway. For a civil airport, the primary surface extends two hundred feet (200') beyond each runway end and has a width of one thousand feet (1,000'). For a military airport, the primary surface has the same length as the runway and a width of two thousand feet (2,000').

Runway. A specified area on an airport or airfield prepared for landing and takeoff of aircraft.

Transitional surface. For a civil airport, an imaginary surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one (7:1) from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the approach surface which project through and beyond the limits of the conical surface extend a distance of five thousand feet (5,000') measured horizontally from the edge of the approach surface and at right angles to the runway centerline. For a military airport, imaginary surfaces which connect the primary surfaces, the first two hundred feet (200') of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface, or other transitional surfaces. The slope of the transitional surface is seven to one (7:1) outward and upward at right angles to the runway centerline.

Vegetation. Any object of natural growth.

(d) *Height regulations*. Except as otherwise provided in this section, no structure shall be erected or altered, and no vegetation shall be allowed to grow to a height so as to penetrate any referenced surface, also known as the floor, of any airport safety zone provided for in section 24-371(c) at any point. The specific height limitations for each airport safety zone are listed below. Any area located in more than one of the following zones shall be construed to be only in the zone with the most restrictive height limitation. In each case, the prescribed limitation represents the maximum permissible height above the airport elevation of the airport to which said limitation refers.

Airport zone. One hundred fifty feet (150').

Approach zone. For civil airports, the maximum height shall be zero feet (0') at the inner edge of the approach surface where it abuts the primary surface, increasing thereafter by one foot (1') for each additional fifty feet (50') of horizontal distance from the end of the primary surface up to 10,000 feet. Beyond 10,000 feet, the maximum height shall increase by one foot (1') for each additional forty feet (40') of horizontal distance from the end of the primary surface, reaching a maximum of 1,200 feet. For military airports, the maximum height shall be zero feet (0') at the inner edge of the approach clearance surface where it abuts the clear zone surface, increasing thereafter by one foot (1') for each additional fifty feet (50') of horizontal distance from the clear zone surface, reaching a maximum of five hundred feet (500').

Conical zone. At the inner edge of the conical zone where it abuts the airport zone, the maximum height shall be one hundred fifty feet (150') and at the outer edge the maximum height shall be three hundred fifty feet (350') for civil airports and five hundred feet (500') for military airports. Between the inner edge and the outer edge, the maximum height shall increase by one foot (1') for each twenty feet (20') of horizontal distance.

Outer airport zone. Five hundred feet (500').

Transitional *zone.* For civil airports, the maximum height shall be the same as in the approach zone where it abuts the transitional zone, increasing by one foot (1') for every seven feet (7') of horizontal distance from the approach surface up to a maximum of five thousand feet (5,000') of horizontal distance.

(e) *Variances*.

(1) An application for a variance to the requirements of this section shall be made in writing to the board of zoning appeals in accordance with the provisions of article IX. Prior to being considered by the board, any such application shall be accompanied by a determination from the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

(2) In granting a variance, the board of zoning appeals may impose reasonable and appropriate conditions as it may deem necessary to protect the public interest and welfare. Such conditions may include, but need not be limited to, requirements to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the zoning administrator.

Sec. 24.1-372. Repealed—see Chapter 23.2, York County Code. (Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-373. FMA-Floodplain management area overlay district.

(a) *Statement of intent.* The requirements set forth in this section are adopted pursuant to the authority granted to localities by Section § 15.2-2280 of the Code of Virginia. In accordance with the objectives of the comprehensive plan, these regulations are intended to ensure the health, safety and general welfare of the public by ensuring that inhabitants and property within the areas designated as flood hazard areas are safe from damage due to flooding and that development actions will not endanger others. This section complies with the requirements of the National Flood Insurance Program (44 CFR 60.3, et seq.) administered by the Federal Emergency Management Agency and is necessary to ensure that all property owners within the county are eligible for participation in the National Flood Insurance Program regular program and thereby able to secure such insurance at nominal rates.

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

(1) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

(2) restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding;

(3) requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage; and,

(4) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(b) *Applicability.*

(1) The special provisions established in this section shall apply to the areas designated as Special Flood Hazard Areas as determined by the Flood Insurance Study (FIS) and as delineated on the Flood Insurance Rate Map (FIRM) for York County prepared by the Federal Emergency Management Agency, Federal Insurance Administration dated January 16, 2015, as amended, and including the following zones.

a. Zones identified as an AE Zone on the Flood Insurance Rate Map (FIRM) are those for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.

b. Zones identified as an A or A99 Zone on the Flood Insurance Rate Map (FIRM) are those areas where no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.

c. Zones identified as a coastal AE zones on the Flood Insurance Rate Map (FIRM) are those that are subject to wave height between 1.5 feet and 3 feet, and identified on the FIRM as areas of **Limits of Moderate Wave Action (LiMWA)**. Flood elevations are provided in these tidal floodplains; however, floodway data is not applicable.

d. Zones identified as VE or V Zones on the Flood Insurance Rate Map (FIRM) are those areas subject to wave velocity and known as Coastal High Hazard Zones.

The Flood Insurance Rate Map (FIRM) is declared to be a part of this chapter, and an official copy thereof shall be maintained in the Geographic Information System offices with copies also being maintained in the offices of the zoning administrator and building official.

The FIRM also delineates Zone X and Zone X-500 areas. Such areas are not considered to be within the Special Flood Hazard Areas and are not subject to the requirements of this section.

(2) These special provisions shall supplement the regulations of the zoning district within which a subject property is located. The floodplain zones described herein shall be an overlay to the existing underlying zoning districts.

(3) Where these regulations are at variance with the general regulations of this chapter, the specific regulations of the zoning district within which the property is located, or other provisions of this Code, the most restrictive regulation shall apply.

(4) Any changes to the data contained in either the Flood Insurance Study or the Flood Insurance Rate Map as a result of natural or man-made conditions or subsequent study and analysis shall require the approval of the Federal Insurance Administrator prior to implementation. Evidence of such approval shall require the filing with the zoning administrator of one of the following:

a. Letter of Map Amendment (LOMA)

b. Letter of Map Revision (LOMR)

c. Physical Map Revision

In all cases, the burden of proof shall be on the applicant requesting a map or data change.

(5) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered within the floodplain management overlay district except in full compliance with the terms and provisions of this section. All uses, activities, and development occurring within any floodplain management overlay district shall be undertaken only upon the issuance of a zoning certificate, as described in section 24.1-107 of this chapter. Such development shall be undertaken only in strict compliance with the provisions of this section and all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code, the York County Subdivision Ordinance (Chapter 20.5, York County Code), and other applicable state and federal laws.

(6) All applications for development and building permits in the FMA overlay district shall incorporate the following information:

a. For structures to be elevated, the elevation of the lowest floor (including basement);

b. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed;

c. The elevation of the one hundred (100)-year flood (base flood elevation);

d. Topographic information showing existing and proposed ground elevations; and

e. Within Coastal A and V-Zones, information obtained and recorded on the permit application shall include the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement.

(7) The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. More severe floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams or channel openings restricted by debris. These provisions do not imply that areas outside the FMA district or land uses permitted within such district will be free from flooding or flood damages.

(8) The provisions set forth in this section shall not create liability on the part of the County or any officer or employee thereof for any flood damages that result from reliance on these provisions or any administrative decision lawfully made thereunder.

(c) For the purposes of this section, the following terms shall have the following meanings:

Base flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The Federal Emergency Management Agency designated one-hundred-year water surface elevation. The water surface elevation of the base flood relates to the datum specified on the Flood Insurance Rate Map (FIRM) prepared by FEMA and published as part of the National Flood Insurance Program.

Basement. As used in this section, a basement shall be defined as any part of any structure where the floor is below ground level on all sides.

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation.

Channel. A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and the storage of materials and equipment.

Elevated building. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction. Structures for which the "start of construction" commenced before December 16, 1988, the effective date of the initial FIRM, or which was compliant with the FIRM then in effect prior to any subsequently amended and adopted FIRMs. "Existing construction" may also be referred to as "existing structures"

FEMA. The Federal Emergency Management Agency.

Flood or flooding.

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   - overflow of inland or tidal waters, or

   - the unusual and rapid accumulation or run-off of surface waters from any source, or the unusual and rapid accumulation or run-off of surface waters from any source,

   - mudflows which are proximately caused by flooding or precipitated by accumulations of water on or under the ground which are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by water or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood, 100-Year. A flood level with a one-percent (1%) or greater chance of being equaled or exceeded in any year. Also referred to as base flood.

Flood hazard zone. The delineation of special flood hazard areas into insurance risk and rate classifications on the Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency and which include the following zones and criteria:

- Zone A. Areas subject to inundation by the 100-Year Flood where detailed analyses have not been performed and base flood elevations are not shown.

- Zone AE and AH. Areas subject to inundation by the 100-Year Flood as determined by detailed methods with base flood elevations shown within each area.

- Coastal A Zone. Areas that have been delineated as being subject to wave heights between 1.5 feet and 3 feet and delineated on the FIRM as areas of Limits of Moderate Wave Action (LiMWA). Flood elevations are shown within these areas.

- Zone AO. Areas that have been delineated as being subject to shallow flooding identified as AO on the FIRM.

- Zone VE. Areas along coastal regions subject to additional hazards associated with storm wave and tidal action as well as inundation by the 100-Year Flood.

- Zone X and X500. Areas located above the 100-Year Flood boundary and having moderate or minimal flood hazards or a 0.2% annual chance of flooding.

Flood Insurance Rate Map (FIRM). An official map of the county on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). A report by FEMA that examines evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood related erosion hazards.

Floodplain administrator. The individual responsible for administering and ensuring compliance with the terms of the FMA provisions set forth herein. The zoning administrator or other designee appointed by the county administrator shall serve as the floodplain administrator.

Floodplain or flood-prone area. A land area which is susceptible to being inundated by a flood. Floodplain areas are generally adjacent to a river, stream, bay, lake, watercourse, or storm drainage facility.

Floodplain management area. A land area located within a Flood Hazard Zone or which has been designated by the County and to which the provisions of this section apply.

Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Also, a construction method designed to ensure that all parts of a structure or facility located below the base flood elevation are watertight with walls impermeable to the passage of water and with structural components having the capability of withstanding hydrostatic and hydrodynamic loads and the effects of buoyancy.

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

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

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. individually listed on the Virginia inventory of historic places; or,

4. individually listed on a local inventory of historic places that has been certified by the Virginia Department of Historic Resources.

Hydrologic and Hydraulic Engineering Analysis. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreations and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of Map Change (LOMC). A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- *Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property is incorrectly included in a designated special flood hazard area. A LOMA amends the current effective FIRM and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

- *Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the county's floodplain management regulations.

- *Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirement for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR, Section 60.3.

Manufactured home. The provisions of section 24.1-104, Definitions of this chapter notwithstanding, for purposes of this section, a manufactured home shall be defined as a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Also included within this definition shall be park trailers, travel trailers, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days, excluding however, those such vehicles stored on a property and not used for their intended purposes.

Manufactued home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level. North American Vertical Datum of 1988 to which all elevations on the FIRM and within the Flood Insurance Study are referenced.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Map (December 16, 1988), and including any subsequent improvement to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structure.

Post-FIRM structures. A structure for which construction or substantial improvement occurred after December 16, 1988.

Pre-FIRM structures. A structure for which construction or substantial improvement occurred on or before December 16, 1988.

Recreational vehicle. The provisions of section 24.1-104, Definitions of this chapter notwithstanding, for purposes of this section, a recreational vehicle is one which is:

1. built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. designed to be self-propelled or permanently towable by light duty truck; and

4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

Repetitive Loss structure. A building coved by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.

Sand dune. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Shallow flooding area. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area (SFHA). The land in the floodplain subject to a one (1%) or greater chance of being flooded in any given year.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within the initial period of validity for the permit, which is 180 days. If the permit expires or lapses, then the start shall be the date that the work actually starts under a new or renewed permit. The actual start means either the first placement of permanent construction on a site, such as the pouring of the slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, a gas or liquid storage tank that is principally above ground, or a manufactured home.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

- Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

- Any project for improvement of a structure to correct existing violations of Virginia or county health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions.

Violation. The failure of a structure or other development to be fully compliant with this section (24.1-373).

Watercourse. A natural or artificial channel for the passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.

(d) *Use Regulations.* Permitted uses, specially permitted uses, accessory uses, dimensional standards, and special requirements shall be as established by the underlying zoning district, except as specifically modified herein.

(1) The following uses shall be specifically prohibited within the Floodplain Management Areas overlay district:

a. Landfills, junkyards, outdoor storage of inoperative vehicles.

b. Manufactured homes, except in a manufactured home (mobile home) park or subdivision that existed as of July 19, 1990. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met. Such replacement manufactured home, or the substantial improvement of an existing one, shall comply in all respects with the terms of this Chapter and the Virginia Uniform Statewide Building Code and, specifically, shall be anchored so as to prevent flotation, collapse, or lateral movement.

c. Surface mines and borrow pits

d. Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:

1. Superfund Amendment and Reauthorization Act of 1986

2. Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987)

The following products shall be specifically included:

a) Oil and oil products including petrochemicals

b) Radioactive materials

c) Any material transported or stored in large commercial quantities (such as 55-gallon drums) which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand

d) Biologically accumulative poisons

e) Substances containing the active ingredients of economic poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.)

f) Substances highly lethal to mammalian or aquatic life

e. Storage or land application of industrial wastes

f. Outdoor storage of equipment, materials, or supplies which are buoyant, flammable, or explosive.

(2) The provisions of article VIII. Nonconforming Uses of this chapter notwithstanding, no expansion of any of the above uses located within the Floodplain Management Area overlay district shall be permitted.

(3) All recreational vehicles placed on sites within the Floodplain Management Area overlay district must either:

a. be on the site for fewer than 180 consecutive days; or

b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick

disconnect type utilities and security devices and has no permanently attached additions); or,

c. meet all the requirements for manufactured homes as specified in this chapter.

(e) *Special standards and requirements*.

(1) *Standards for subdivisions.* Preliminary plans, development plans and final subdivision plats of all properties, all or part of which are located within any special flood hazard area, must be prepared and sealed by a licensed surveyor or engineer. The following information, in addition to that which would otherwise be required, shall be provided on the respective plans:

a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s) shall be depicted on preliminary plans, development plans, and final plats.

b. Development plans shall provide topographical information for the site at a maximum contour interval of two feet (2'), provided, however, that a one foot (1') contour interval for elevations one foot (1') lesser and one foot (1') greater than the 100-Year Flood boundary shall be shown.

c. The elevation of the finished surface of the ground at each corner of each existing building located within any special flood hazard area shall be shown on development plans and final plats.

d. For subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser, base flood elevation data shall be obtained from other sources or developed using detailed methodologies, and hydraulic and hydrologic analysis comparable to those contained in a Flood Insurance Study.

e. All subdivision proposals shall be consistent with the need to minimize flood damage.

f. All subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

g. All subdivision proposals shall be designed to provide adequate drainage to reduce exposure to flood hazards.

(2) *Standards for site plans.* Site plans for development of all properties, all or part of which are located within any special Flood hazard area, must be prepared and sealed by a licensed surveyor or engineer and include the following information in addition to that which would otherwise be required:

a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s).

b. Topographical information for the site provided at a maximum contour interval of two feet (2'), provided, however, that a one foot (1') contour interval shall be required for elevations one foot (1') lesser and one foot (1') greater than the 100-Year Flood boundary and the boundary itself shall be shown.

c. The elevation of the finished surface of the ground at each corner of each existing or proposed building location within any flood hazard zone.

(3) *Standards for utilities.* All new or replacement utilities, water filtration, and wastewater treatment facilities, installed in a floodplain management area shall be designed to prevent the infiltration of floodwaters into or discharge from such utilities and to minimize the potential for flood damage.

Where private waste disposal systems are to be installed or replaced, they shall be installed so that they will not be permanently contaminated or impaired by a base flood.

(4) *Standards for streets and roads.* The finished centerline elevation of all new public or private streets shall be no lower than six and one-half feet (6½') above mean sea level (NGVD) pro-

vided, however, that where an existing street not meeting this criterion is to be extended, the zoning administrator may approve streets or parts thereof which are below this elevation, but not lower than the elevation of the existing street.

(5) *Standards for Floodways.* Within any floodway, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow thorough review by the Floodplain Administrator.

(6) *Standards for filling of floodplain management areas.*

a. Where fill within the floodplain management area is proposed, the following minimum standards shall apply:

1. Fill areas shall extend laterally a minimum of fifteen feet (15') beyond building lines from all points.

2. Fill material shall consist only of soil and small rock materials which can pass through a three-inch (3") opening ASTM standard sieve. Organic materials, including tree stumps and asphalt rubble, shall be prohibited.

3. Fill areas shall be compacted as may be specified by the zoning administrator to provide necessary permeability and resistance to erosion, scouring, or settling.

4. Fill areas shall be graded to a finished slope of no steeper than one (1) vertical to three (3) horizontal, unless substantiated data, certified by a licensed engineer, which justifies steeper slopes is submitted to and approved by the zoning administrator.

5. The zoning administrator shall impose any additional standards deemed necessary to ensure the safety of the community and properties from additional flood hazard potentials caused by filling within the floodplain management area.

b. Filling or any other encroachment into any channel within the floodplain management area which would, as determined by the zoning administrator, obstruct or unduly restrict water flows through the channel and, in so doing, increase the potential for flood damage shall be prohibited.

c. The filling of any portion of property solely to increase the elevation of the land to meet minimum lot area requirements and thereby create a buildable lot for residential construction within the floodplain management area shall be prohibited.

d. These standards may be waived individually by the zoning administrator, upon the recommendation of the wetlands board for approved parks, recreation facilities, shoreline erosion control and beach maintenance projects where sufficient data is presented justifying the project and where it is demonstrated that such actions will not increase flood levels on any properties.

(7) *Standards for watercourse modification.* Watercourses shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer, that the flood-carrying capacity of such a modified watercourse will be at least equal to that prior to modification. Prior to any proposed alteration of any channels or of any watercourse or stream within the Floodplain Management Area overlay district, necessary permits shall be obtained from the Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.

(8) *General Construction Standards for all Flood Hazard Zones.* All new or substantial improvement construction in the FMA overlay district shall comply with the following general standards:

a. Construction shall comply with all applicable terms of the Virginia Uniform Statewide Building Code and shall be anchored so as to prevent flotation, collapse or lateral movement of the structure due to the effects of wind and water acting simultaneously on all building components. Wind and water loading values shall each have a one percent (1%) chance of being equaled or exceeded in any given year.

b. Construction methods and practices shall be undertaken so as to minimize flood damage.

c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

d. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

e. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

f. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) *Construction standards for properties in Zone AE, and AH.* All new construction or substantial improvement in Zone AE and AH of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone AE and AH contained in the Virginia Uniform Statewide Building Code. The floodplain administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

a. All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.

b. All electrical distribution panels be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent inundation.

c. The elevation of the lowest floor of any residential structure, including basements, shall be constructed with a freeboard at least three feet (3') above the base flood elevation. Non-residential structures may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Division of Building Regulation.

d. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

In addition to the above, on property within the Coastal Floodplain zones identified as Coastal AE Zones on the Flood Insurance Rate Map (FIRM) that is subject to wave height between

1.5 feet and 3 feet, and which is identified on the FIRM as being within the **Limits of Moderate Wave** Action (LiMWA), buildings and structures shall have the lowest floor elevated to provide at least one (1) additional foot of freeboard (i.e., 4 feet).

(10) *Construction standards for properties in Zone A.* All new construction or substantial improvements in Zone A must comply with all standards applicable to Zone AE contained in this section and the floodplain construction provisions of the Virginia Uniform Statewide Building Code. In addition, the owner and developer of such property shall provide to the floodplain administrator sufficiently detailed hydrologic and hydraulic analyses, certified by a licensed engineer, to determine the base flood elevation for the property and the location of the 100-Year Flood Boundary. Upon approval by the floodplain administrator, copies of all such detailed analyses shall be transmitted to the Federal Insurance Administrator for incorporation into the FIRM.

(11) *Construction standards for properties in zones without a designated floodway:* Within any AE or AH zone without a designated floodway, no new development activities that increase the water surface elevation of the base flood shall be permitted unless the applicant first applies – with the County's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

In addition, within the Floodway of an AE or AH zone development, activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the County's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

(12) *Construction Standards for properties in the **Zone AO** shall be as the following:*

a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated with a freeboard of at least 3 feet or above the flood depth specified on the FIRM; above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

b. All new construction and substantial improvements of non-residential structures shall:

1) have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

2) together with attendant utility and sanitary facilities be completely floodproofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(13) Space Below the Lowest Floor in Zones A, AE, AH, and AO

In zones A and AE, fully enclosed areas of new construction or substantially improved structures which are below the regulatory flood protection elevation shall:

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

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

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

d. provide a minimum of two openings on different sides of each enclosed area subject to flooding.

e. provide a total net area of all openings of at least one (1) square inch for each square foot of enclosed area subject to flooding.

f. in the case of a building has more than one enclosed area, provide each area with openings to allow floodwaters to automatically enter and exit.

g. be designed so that the bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

h. be designed so that openings, if equipped with screens, louvers, or other opening coverings or devices, permit the automatic flow of floodwaters in both directions. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(14) *Construction standards for properties in Zone VE.* All new construction or substantial improvement in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The floodplain administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. The VE or V Zones on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast. All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated with a freeboard at least three feet (3') above the base flood level if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least one foot above the freeboard if the lowest horizontal structural member is perpendicular to the direction of wave approach; and

b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).

c. In addition, the following standards shall apply:

1. All new construction or development shall be located landward of the reach of the mean high tide.

2. Any man-made alteration of a sand dune or any part thereof shall be prohibited.

3. No structure or any part thereof may be constructed on fill material of any kind.

4. All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.

5. All electrical distribution panels be installed with a freeboard at least six feet (6') above the base flood elevation or otherwise located so as to prevent inundation.

6. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building and supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

   i. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

   ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.

   iii. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

   iv. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (14) a. and b., above.

In addition to the above, on property within the Coastal Floodplain zones identified as Coastal VE Zones on the Flood Insurance Rate Map (FIRM) that is subject to wave height between 1.5 feet and 3 feet, and which is identified on the FIRM as being within the Limits of Moderate Wave Action (LiMWA)**,** buildings and structures shall have the lowest floor elevated to provide at least one (1) additional foot of freeboard (i.e., 4 feet)

(15) *Historic structures.* Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

(16) A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by the provisions set forth herein shall be presumed to be in violation until such time as that documentation is provided.

(17) Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage system or facility.

(f) *Submitting Technical Data*. The floodplain administrator shall monitor physical changes in the County that could potentially cause base flood elevations to increase or decrease and affect flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the floodplain administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

(g) *Administration*. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Office of Building Regulations. The Floodplain Administrator shall have the following duties and responsibilities:

(1) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(4) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies, including without limitation the Virginia Department of Environmental Quality (VADEQ) and the United States Army Corps of Engineers (USACE) and have submitted copies of such notifications to the United States Federal Emergency management Agency (FEMA).

(6) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

(7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.

(8) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the (community), within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

b. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(12) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(13) Administer the requirements related to proposed work on existing buildings:

a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(14) Undertake, as determined appropriate due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under NFIP flood insurance policies.

(15) Notify FEMA when the corporate boundaries of the county have been modified and:

a. Provide a map that clearly delineates the new county boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the board of supervisors for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, the number of permits issued for development in the SFHA, and the number of variances issued for development in the SFHA.

(17) Ensure that flood, mudslide, and flood-related erosion hazards, to the extent that they are known, are taken into account in all official actions relating to land management and use throughout the entire County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

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

(i) *Violations.* Violations of any of the terms of this section shall be pursued in accordance with the provisions of Section 24.1-109, Administration, enforcement, and penalties, of this Chapter and Article VI, Violations and penalties, of Chapter 7.1, Building Regulations.

(j) *Variances.* Variances from the provisions of this section may be granted by the board of zoning appeals in accordance with the provisions of article IX of this chapter except that the board of zoning appeals shall notify all applicants, in writing, that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance and that such construction increases risks to life and property, both their own and others. A record shall be maintained of the

above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(1) Variances shall be issued only after the board of zoning appeals has determined that:

a. there is good and sufficient cause;

b. failure to grant the variance would result in exceptional hardship to the applicant; and

c. that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with local laws or ordinances.

(2) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

(3) Variances shall not be issued for any proposal located within a designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

Nothing in this section shall be construed to supersede any requirements or procedures specified by the Virginia Uniform Statewide Building Code.

(Ord. No. O98-18, 10/7/98; Ord. No. 03-24, 6/17/03; Ord. No. 09-11(R), 6/2/09; Ord. No. 11-15(R), 11/16/11; Ord. No. 14-22, 11/18/14)

Sec. 24.1-374. HRM-Historic resources management overlay district.

(a) *Statement of intent*. In accordance with the objectives of the adopted comprehensive plan and specifically with section 15.2-2306, Code of Virginia, the purpose of the historic resources management overlay district is to protect the historic cultural resources of the county by ensuring that historic buildings and archeological sites are acknowledged, properly documented and protected or recovered as development activity occurs.

(b) *Applicability.* The Historic Resources Management Overlay District shall apply to all properties in the county which have historic and archaeological resources present on the site as identified by the study entitled "Resource Protection Planning Revisited: James City County, York County, and City of Williamsburg" prepared by the Department of Archaeological Research, Colonial Williamsburg Foundation and/or as may be identified in the historic resources database maintained and managed by the Virginia Department of Historic Resources. In addition, the HRM overlay provision shall apply to all properties identified in the architectural resources database maintained and managed by the Virginia Department of Historic Resources.

(c) *Use regulations*. Permitted uses, specially permitted uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

(d) *Special requirements*.

(1) Archaeological sites.

a. A Phase I archaeological study performed in accordance with the Guidelines for Archaeological Investigations in Virginia, 1996 or as amended, published by the Virginia Department of Historic Resources, shall be undertaken in conjunction with all development proposals involving any properties within the HRM District. The Phase I study shall identify, in accordance with accepted practices, any sites potentially eligible for listing on the Virginia Landmarks Register or the National Register of Historic Places.

b. Potentially eligible sites recorded in the Phase I study that cannot be avoided by the development shall be further evaluated through the performance of a Phase II evaluation conducted in accordance with the referenced Guidelines. Sites that are to be avoided shall be cordoned-off in the field by orange-mesh snow fencing or other pro-

tective markings/delineations prior to any land disturbing activity on the property. The Phase II study shall be submitted to the County for review and approval.

c. At the conclusion of the Phase II evaluation and its approval as to compliance with the preparation Guidelines, if a site is determined not eligible for listing on the National Register of Historic Places, then development may occur within the subject area. If the site is determined to be potentially eligible for listing on the National Register, then the following mitigation options are available:

1. Avoidance. In cases where the resource is located outside of any areas that will be disturbed by development activities, the resource site may be avoided by setting aside the site and a sufficient perimeter buffer in an undisturbed natural area. National Register eligible archaeological sites that are to be avoided by the development shall be clearly marked on project construction maps. In addition, if ground clearing or construction activities will take place within 100 feet of the site area, then the site boundaries shall be cordoned-off in the field with orange snow fencing or other appropriate barrier.

2. Partial Avoidance and Data Recovery. In cases where the resource site is partially located within a natural area to be left undisturbed by development activities and partially within an area to be disturbed by development, data recovery shall be required for the site area to be impacted. The site area that is to be protected/preserved shall be clearly marked on project construction plans. In addition, if ground clearing or construction activities will take place less than 100 feet from the site, then the remaining resource boundaries shall be cordoned-off in the field with orange snow fencing or other appropriate barrier. A Treatment/Data and Resource Recovery Plan shall be completed and submitted to the zoning administrator for review and approval as to compliance with preparation guidelines.

3. Data and Resource Recovery. If the resource site cannot be avoided by development activities, then a Treatment Plan / Data and Resource Recovery Plan shall be completed and submitted to the zoning administrator for review and approval as to compliance with the preparation Guidelines.

d. Archaeological excavations being conducted in accordance with an approved Treatment / Data and Resource Recovery Plan shall be under the direct supervision of an archaeologist who meets the *Secretary of the Interior's Professional Qualification Standards* promulgated by the United States Department of the Interior. All work and resulting reports shall meet the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* promulgated by the United States Department of the Interior and VDHR's guidance entitled, *Guidelines for Preparing Identification and Evaluation Reports for Submission Pursuant to Section's 106 and 110, National Historic Preservation Act, Environmental Impact Reports of State Agencies, Virginia Appropriations Act, 1998 Session Amendments* and *Guidelines for Archaeological Investigations in Virginia June 1996*, and any subsequent amendments to such guidelines. All field and laboratory methodology, as well as the final report, shall be conducted in accordance with standards set forth in the VDHR's *Guidelines for Preparing Archaeological Resource Management Reports* and will meet the qualifications set forth in the Secretary of Interior's *Professional Qualification Standards*.

(2) *Architectural structure.*

a. *The Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitating Historic Buildings* shall be used in performing appropriate architectural studies or analyses of standing structures.

b. In the event of demolition of an architecturally or historically standing structures is proposed, the zoning administrator may require that a set of measured drawings be prepared by a licensed architect and filed with the county and the state historic preservation office prior to demolition occurring.

(3) All archaeological and architectural studies shall be submitted to the zoning administrator for review and approval and shall be made a part of any development plan approval. All such reports or studies submitted to meet the requirements of this section shall include a signed statement by the preparer certifying that they have complied with all applicable research methodology and guidelines. The zoning administrator shall determine whether the studies have been prepared in accordance with the applicable guidelines through consultation with the Virginia Department of Historic Resources or through such other procedures as deemed appropriate.

(e) *Waiver of certain requirements*. Upon written request from the developer, the zoning administrator may waive any of the above requirements deemed not to be necessary for the proposed project or where it is determined in writing by competent authority recognized by the zoning administrator or state historic preservation officer that the value of the historic resource is insignificant in comparison to the cost of required studies, recovery, or preservation plans.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-375. TCM-Tourist corridor management overlay district.

(a) *Statement of intent*. In accordance with section 15.2-2306 Code of Virginia and the objectives of the comprehensive plan, the tourist corridor management overlay district regulations are designed and intended to protect the aesthetic and visual character of the transportation corridors leading into and through the designated historic districts of Williamsburg and Yorktown. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county. The provisions that follow include both *requirements* (using the word "shall") that must be met and *recommendations* (using the word "should") that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.

(b) *Applicability*. The special provisions established in this section shall apply to development on parcels which are located along major tourist corridors used to access historic districts in Williamsburg and Yorktown that have been designated on the Virginia Landmarks Register. All lands within two hundred fifty feet (250') of the following arterial rights-of-way shall be included in the overlay district. Where the property is bisected by this line, the overlay designation shall apply to all construction proposed beyond the 250-foot line to a depth of 500 feet, or to the boundary of the property, whichever is less:

(1) George Washington Memorial Highway (Route 17) north of Cook Road

(2) Richmond Road (Route 60)

(3) Bypass Road (Route 60)

(4) Pocahontas Trail (Route 60)

(5) Route 132

(6) Merrimac Trail (Route 143) west of Queen Creek

(7) Goosley Road (Route 238) east of Route 17

(8) Cook Road (Route 704), but excluding the east side of the road between Route 17 and Old York Hampton Highway (Route 634)

(9) Colonial National Historical Parkway

(10) Second Street from Merrimac Trail to the City of Williamsburg boundary line

(11) Interstate 64 and any frontage roads (F-xxx) that abut and run parallel to the I-64 right-of-way.

(12) Route 199

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the future right-of-way line if the proposed development will be required to add right-of-way, either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

(c) *Use Regulations*. Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

(d) *Tree protection.*

(1) No person shall cut, destroy, move or remove any living, disease-free tree of any species having a trunk caliper of eight inches (8") or larger, measured four and one-half feet (4½') above ground level, in conjunction with any development of land in this district unless and until final approval of required site plans and subdivision plans shall be obtained that authorizes such action.

(2) No person shall cut or clear trees for any reason or for the sole purpose of offering land for sale. Land may, however, be underbrushed (bushhogged).

(3) When located within a zoning district which permits such activity, the clear-cutting of trees strictly in conjunction with timbering or silvicultural activities is permitted provided that clear-cutting shall not occur within one hundred feet (100') of the right-of-way of any corridor designated in this section and only when in compliance with a forest management plan approved by the Virginia Department of Forestry. The term "clear-cutting" as used herein shall mean the cutting of more than twenty-five percent (25%) of the trees located on the site.

(e) *Replacement of trees*. Should the zoning administrator determine that trees eight inches (8") in diameter or greater or vegetation which contributes to the buffering effect have been removed without specific site plan or subdivision plan approval for such removal, the zoning administrator shall require replacement of such trees or vegetation. The minimum height of the new replacement trees shall be twelve feet (12'). The minimum height and spread of new shrubs shall be three feet (3'). The zoning administrator may require replacement at ratios greater than one-to-one (1:1) in recognition of the size, spacial coverage, and maturity differences between replacement trees and the trees being replaced. Ratios shall generally conform to the provisions of §24.1-241 relating to tree credits for mature trees.

(f) *Special architectural standards along tourist corridors.* No building exterior or structure including signs shall have architectural materials inconsistent in quality, appearance, or detail with other architectural materials commonly used in the District. Specific consideration shall be given to compatibility with adjacent properties, thus preventing an adverse impact to existing or future development which could cause a depreciation in property values.

Design and architectural features shall demonstrate consistency with the following provisions:

(1) Large work area doors or open bays shall not open toward or face the external roadways.

(2) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.

(3) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a style which is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but shall be buffered from direct view by appropriate landscaping.

(4) Long monotonous facade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line. Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation high-lights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.

(5) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.

(6) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g., tinted or reflective windows) shall not be counted against the three-color limitation. Semitransparent stains are recommended for application on natural wood finishes. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the Corridor Overlay Color Palette which shall be defined as those exterior colors represented on such color charts as are approved by resolution adopted by the Board of Supervisors from time to time. The adoption of a particular color chart shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced and approved palette. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.

(9) No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall be not be interpreted to preclude the use of architectural block as a building material. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.

(10) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.

(9) Building lighting shall be recessed under roof overhangs or generated from concealed source, low level light fixtures. Site lighting shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators. Lighting fixtures or devices shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns. Exposed neon (gas-filled) tubing shall not be permitted on exterior building surfaces or on signs.

(10) Free-standing signs shall be of a ground-mounted monument type and, with the exception of shopping center signs, shall not be larger than thirty-two (32) square feet nor erected to a height greater than ten feet (10'). Other provisions of this chapter notwithstanding, shopping center signs shall be limited to a maximum area of ninety-six (96) square feet and a maximum height of fifteen (15) feet. The use of colors commonly referred to as "neon" or "fluorescent" and which are unnaturally bright shades of red, orange, yellow, green, or blue shall not be permitted on signs.

(11) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as "trucks" by the Department of Motor Vehicles and used in the operation

of the business shall be considered "outdoor storage" and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.

(12) Parking areas shall have ten percent (10%) of their surface areas in landscaped islands. Surface parking within forty-five feet (45') of a public road right-of-way shall be screened from direct view from the public road by shrubbery and earthforms.

(13) Site landscaping shall be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.

(14) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:

a. Comprehensive sign plan including design, materials, and colors to be utilized.

b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.

c. Rendering of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.

d. The location and design of all proposed exterior site lighting within the proposed development.

e. Photographs or drawings of neighboring uses and architectural styles.

(g) *Appeals.* In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

(Ord. O98-22, 11/4/98; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-24, 12/21/10)

Sec. 24.1-376. WMP-Watershed management and protection area overlay district.

(a) *Statement of intent*. In accordance with the objectives of the comprehensive plan, the Watershed Management and Protection Area Overlay regulations are intended to ensure the protection of watersheds surrounding current or potential public water supply reservoirs. The establishment of these regulations is intended to prevent the causes of degradation of the water supply reservoir as a result of the operation or the accidental malfunctioning of the use of land or its appurtenances within the drainage area of such water sources.

(b) *Applicability*. The special provisions established in this section shall apply to the following areas:

(1) Areas designated on the Watershed management and protection area overlay district map, dated September 12, 2008, and made a part of this chapter by reference. (See Map III-2 in Appendix A)

(2) Such other areas as may be determined by the zoning administrator through drainage, groundwater and soils analyses conducted by the department of environmental and development services to be essential to protection of such existing or potential reservoirs from the effects of pollution or sedimentation.

(c) For the purposes of this section, the following terms shall have the following meanings:

Bulk storage. Storage equal to or exceeding 660 gallons in a single above-ground container

Development. Any construction, external repair, land disturbing activity, grading, road building, pipe laying, or other activity resulting in a change in the physical character of any parcel or land.

Reservoir. Any impoundment of surface waters designed to provide drinking water to the public.

Tributary stream. Any perennial or intermittent stream, including any lake, pond or other body of water formed therefrom, flowing either directly or indirectly into any reservoir. Intermittent streams shall be those identified as such on the most recently published United States Geological Survey Quadrangle Map, or the Soil Conservation Service *Soil Survey of James City and York Counties and the City of Williamsburg, Virginia*, or as determined and verified upon field investigation approved by the zoning administrator.

Watershed. Any area lying within the drainage basin of any reservoir.

(d) *Use regulations*. Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

The following uses shall be specifically prohibited within the WMP areas:

(1) Storage or production of hazardous wastes as defined in either or both of the following:

a. Superfund Amendment and Reauthorization Act of 1986; and

b. Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987).

(2) Land applications of industrial wastes.

(e) *Special requirements*.

(1) Except in the case of property proposed for construction of an individual single-family residential dwelling unit, any development proposal, including the subdivision of land, in WMP areas shall be accompanied by an impact study prepared in accordance with the requirements set forth in subsection (f) below.

(2) A two hundred foot (200') wide buffer strip shall be maintained along the edge of any tributary stream or reservoir. The required setback distance shall be measured from the centerline of such tributary stream and from the mean high water level of such reservoir. Such buffer strip shall be maintained in its natural state or shall be planted with an erosion resistant vegetative cover. In the case of tributary streams located upstream from a stormwater management facility designed to provide water quality protection, no buffer shall be required if such facility has been designed to accommodate and manage the quality of runoff from the subject site.

The zoning administrator may authorize a reduction in the two hundred foot (200') wide buffer down to an absolute minimum of fifty feet (50') upon presentation of an impact study, as defined herein, which provides documentation and justification, to the satisfaction of the zoning administrator, that even with the reduction, the same or a greater degree of water quality pro-

tection would be afforded as would be with the full-width buffer. In granting such authorization, the zoning administrator may require such additional erosion control and runoff control measures as deemed necessary.

Except as provided below, all development shall be located outside of the required buffer strip.

a. The buffer strip requirement shall not apply to development which is appurtenant to the production, supply, distribution or storage of water by a public water supplier.

b. Encroachment into or through the required buffer by roads, main-line utilities, or stormwater management structures may be permitted by the zoning administrator provided the following performance standards are met:

1. Road and main-line utility crossings will be limited to the shortest path possible and that which causes the least amount of land disturbance and alteration to the hydrology of the watershed.

2. Stormwater management facilities located within the buffer must be designed to be a part of a watershed stormwater management program.

3. No more land shall be disturbed than is necessary.

4. Indigenous vegetation shall be preserved to the maximum extent possible.

5. Wherever possible, disturbed areas shall be planted with trees and shrubs.

6. The post-development non-point source pollutant loading rate shall be no greater than ninety percent (90%) of the pre-development pollutant loading rate.

7. Non-essential elements of the road or utility project, as determined by the zoning administrator, shall be excluded from the buffer.

c. When the property where an encroachment is proposed is owned by the entity owning and operating the water supply reservoir being protected, and such entity specifically and in writing authorizes and approves the encroachment, it shall be allowed.

(3) In the case of permitted non-residential uses within the WMP areas, performance assurances shall be provided to guarantee that all runoff control and reservoir protection measures proposed in the impact study shall be constructed, operated and maintained so as to meet the performance criteria set forth in the study. The form of agreement and type of letter of credit or other surety shall be approved by the county attorney. The amount of the letter of credit or other surety and designated length of completion time shall be set by the zoning administrator.

(4) The following uses shall not be permitted within the buffer strip required above or within five hundred feet (500') of the required buffer strip:

a. septic tanks and drainfields;

b. feed lots or other livestock impoundments;

c. trash containers and dumpsters which are not under roof or which are located so that leachate from the receptacle could escape unfiltered and untreated;

d. fuel storage in excess of fifty (50) gallons [200L];

e. sanitary landfills;

f. activities involving the manufacture, bulk storage or any type of distribution of petroleum, chemical or asphalt products or any materials hazardous to a water supply (as defined in the *Hazardous Materials Spills Emergency Handbook*, American Waterworks Association, 1975, as revised) including specifically the following general classes of materials:

1. oil and oil products;

2. radioactive materials;

3. any material transported in large commercial quantities (such as in 55-gallon [200L] drums), which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a severe oxygen demand;

4. biologically accumulative poisons;

5. the active ingredients of poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.); or

6. substances highly lethal to mammalian or aquatic life.

(f) *Impact study*.

(1) The impact study shall be performed or reviewed by a registered professional engineer who shall certify that the study has been conducted in accordance with good engineering practices. The study shall address, at a minimum, the following topics:

a. Description of the proposed project including location and extent of impervious surfaces; on-site processes or storage of materials; the anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features.

b. Characteristics of natural runoff on the site and projected runoff with the proposed project, including its rate, and chemical composition including phosphorus concentration, nitrogen concentration, suspended solids, and other chemical characteristics as deemed necessary by the zoning administrator to make an adequate assessment of water quality.

c. Measures proposed to be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after.

d. Proposed runoff control and reservoir protection measures for the project and performance criteria proposed to assure an acceptable level and rate of runoff quality. Such measures shall be consistent with accepted best management practices and shall be designed with the objective of ensuring that the rate of surface water runoff from the site does not exceed pre-development conditions and that the quality of such runoff will not be less than pre-development conditions. Special emphasis shall be placed on the impacts of proposed encroachments into the required buffer.

e. Proposed methods for complete containment of a spill or leaching of any materials stored on the property which would or could cause contamination of drinking water sources.

f. Where the developer of property which is subject to the terms of this overlay district desires to utilize existing or planned off-site stormwater quality management facilities, the developer shall provide a written certification to the zoning administrator that the owner of the off-site facilities will accept the runoff and be responsible for its treatment to a level of treatment acceptable to the county and consistent with the requirements of this chapter.

(2) Such study shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for review and approval of site or subdivision plans or applications for land disturbing or erosion and sediment control permits. A copy of the impact study shall also be forwarded to the agency which owns or manages the subject watershed for review and comments.

(Ord. No. O98-18, 10/7/98; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-377. Yorktown Historic District Overlay.

(a) Statement of Intent

The Yorktown Historic District is intended to promote and protect the historical significance, appearance, architectural quality, and general welfare of the Yorktown community through the identification, preservation, and enhancement of landmarks, buildings, structures, and areas which have special historical, cultural, architectural, or archaeological significance as provided by Section 15.2- 2306, Code of Virginia. The Historic District and the accompanying guidelines are drawn with the objective of protecting and improving the village character and ambiance and ensuring its preservation for the benefit of the residents of Yorktown and York County.

The preservation of the historical significance of Yorktown is of paramount importance and it is recognized that the deterioration, destruction, or alteration of Yorktown landmarks, buildings, structures, and significant areas may cause the permanent loss of unique resources which are of great value to the people of Yorktown and York County, the Commonwealth of Virginia, and the nation. These special controls and incentives are warranted to ensure that such losses are avoided when possible.

The purposes for establishing a special Yorktown Historic District zoning classification are:

(1) To preserve and improve the historical significance of Yorktown for all residents of York County by protecting familiar and treasured visual and historical elements in the area.

(2) To promote tourism by protecting historical and cultural resources attractive to visitors and thereby supporting local businesses.

(3) To stabilize and improve property values by providing guidelines for the upkeep and rehabilitation of older structures and by encouraging desirable uses and forms of residential and commercial development.

(4) To educate residents on the local cultural and historic heritage as embodied in the Historic District and to foster a sense of pride in this heritage.

(5) To prevent the encroachment of buildings and structures which are architecturally incompatible with their environs within areas of architectural harmony and historic character.

(b) Definitions

(1) *Historic Yorktown Design Committee (HYDC)* - A three-member board appointed by the York County Board of Supervisors, the purpose of which is to review and determine the appropriateness of proposed actions involving properties within the Historic District.

(2) *Certificate of Appropriateness* - A statement signed by the Chair of the Historic Yorktown Design Committee, or his designee, which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building or structure within the Historic District, subject to the issuance of all other permits needed for the matter sought to be accomplished.

(3) *Contributing Building/Structure* - A building or structure within the Yorktown Historic district that was constructed between and including the years 1866 to 1945.

(4) *Demolition* - The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto.

(5) *Exterior Features* - The architectural style, general design, and general arrangement of the exterior of a building or structure, including the kind and texture of the building mate-

rial and the type and style of all windows, doors, light fixtures, signs, other appurtenant fixtures.

(6) *Pivotal Building/Structure* - A building or structure within the Yorktown Historic District that was constructed in 1865 or before.

(7) *Non-Contributing Building/Structure* – A building or structure within the Yorktown Historic District that was constructed in 1946 or later.

(8) *Yorktown Design Guidelines* – The architectural design guidelines adopted by the Board of Supervisors in conjunction with the adoption of this overlay district and any subsequent amendments as may be adopted by the Board of Supervisors from time to time.

(c) Application of District

The Yorktown Historic District, as designated by the Board of Supervisors, shall be shown as an overlay to the underlying zoning district(s) and shall serve as a supplement to those underlying district regulations.

(d) Certificate of Appropriateness

(1) Within the Yorktown Historic District, no historic landmark or building or structure, including fences and signs, shall be erected, reconstructed, altered, restored, demolished, or moved until a certificate of appropriateness for such work has been issued as provided herein. The certificate of appropriateness shall be displayed on the work site.

(2) In any case where the work to be performed requires the issuance of a permit or approval under other terms of the Zoning Ordinance or York County Code, no such permit shall be granted until a certificate of appropriateness has been approved and issued as required herein. The certificate of appropriateness shall be displayed on the site.

(e) Actions Exempted from Review

Certain actions that are deemed not to permanently affect the character of the historic district shall be exempt from review. Such actions shall include the following and any similar actions, as determined by the Zoning Administrator, that will have no more effect on the character of the district than those listed:

(1) Interior alterations.

(2) Maintenance or repair which does not result in a change in exterior features and appearance (such as repainting resulting in the same color, re-roofing with a material that matches the existing, or gutter replacement that matches the existing). Painting of previously unpainted masonry surfaces is not exempt from review.

(3) Changes to a structure that do not involve addition or demolition of building floor area or volume and are not subject to view from adjacent properties or rights-of-way.

(4) Removal of television or radio antennas, solar collectors, and similar appurtenances.

(5) Demolition of any building or structure that the Building Official orders, in writing, because of an unsafe or dangerous condition.

(6) Landscaping.

(f) Actions Permitted with Administrative Approval

(1) Certain actions that are deemed to have only a minor effect on the character of the historic district may be approved by the Zoning Administrator upon submittal of an appropriate application form. Such actions shall include the following and any similar actions, as determined by the Zoning Administrator, which will have no more effect on the character of the district than those listed.

a. Additions or deletions to a structure which will not substantially change the archi-

tectural character of the structure and which are generally hidden from public view or inconspicuous in nature.

b. Construction of piers, docks, and bulkheads.

c. Outside storage on a business property that does not involve structural changes.

d. Painting the exterior of a structure or the face of an existing sign when using one of the colors shown on the approved palette of colors.

e. Demolition or moving of any building or structure other than a Pivotal structure.

f. Modification or extension of existing fences or walls along street frontages or side property lines and installation of new fences in rear yards.

(2) The Zoning Administrator shall be guided by the standards and guidelines referenced in Section 24.1-377(h) and shall have the authority to request modifications of a specific proposal in order that the proposal may comply with such standards and guidelines. In any case where the Zoning Administrator is uncertain of his or her authority to act on a particular application under this section or in any case where the Zoning Administrator and the applicant cannot agree on changes in the proposal, the application shall be referred to the HYDC for action. In the case of disapproval by the Zoning Administrator, the applicant may appeal the decision within thirty (30) days to the HYDC. The Zoning Administrator shall keep a record of decisions under this section and shall report on such decisions to the HYDC at its next regular meeting.

(g) Actions Requiring Approval by the Historic Yorktown Design Committee

(1) All actions not covered under Sections 24.1-377(e) or 24.1-377(f) above and any other actions not specifically exempted by the terms of this Article shall be permitted only after issuance of a certificate of appropriateness by the HYDC. Such actions include, but are not limited to:

a. Razing, demolishing, or moving a *Pivotal* building or structure.

b. Constructing a new building or structure.

c. Any addition to, or modification of, a building or structure which alters the square footage of the structure or otherwise alters its size, height, contour or outline, or color.

d. Any change or alteration of the exterior features and architectural style of a building, including removal or rebuilding or porches, dormers, cupolas, stairways, terraces, and the like.

e. Addition or removal of one or more stories of a building or alteration of the roofline of such structures.

f. Construction of walls or fences as a new feature on street frontages or side property lines (i.e., when not an extension of a fence already located on the front or side property lines.

g. Any addition of, or alteration to, a sign, including changing the face or repainting the face if using colors not on the Yorktown Color Palette.

h. Painting or repainting a structure using colors that are not on the Yorktown Color Palette.

(h) Standards and Guidelines for Review

In considering any request for a certificate of appropriateness, the following standards, and the Yorktown Design Guidelines, as adopted by the Board of Supervisors, and as may amended from time to time (which are incorporated into this ordinance by reference), shall be considered.

(1) Generally, the following should be considered:

a. The relationship of the proposed changes to the historic, architectural or cultural significance of the structure and the surrounding district.

b. The appropriateness of the change in terms of architectural compatibility with the distinguishing historic and architectural features of the structure and the district. Architectural compatibility shall be judged in terms of a proposed structure's mass, dimensions, materials, color, ornamentation, architectural style, lighting, and other criteria deemed pertinent.

(2) For renovations to Pivotal structures (pre-1865), the conformance of the change with the standards established by the U. S. Secretary of the Interior for the rehabilitation of historic buildings.

(3) For new construction, the following shall apply:

a. The design for new construction shall be sensitive to and take into account the special characteristics that the district is established to protect. Such considerations are to include building scale, height, orientation, site coverage, spatial separation from other buildings, facade and window patterns, entrance and porch size and general design, materials, texture, color, architectural details, roof forms, emphasis of horizontal or vertical elements, walls, fences, and any other features deemed appropriate by the reviewing authority (Zoning Administrator or HYDC).

b. The design of the new construction shall recognize the relationships among buildings in the immediate setting rather than specific styles or details since architectural styles and details may throughout the Historic District.

(4) For signage, the following shall apply:

a. Signs shall be compatible with and relate to the design elements of the building they are associated with or attached to, rather than obscure or disrupt such design features.

b. Signs shall be compatible with other signs and buildings in the district and adjacent to the property.

c. Compatibility shall be judged in terms of dimensions, materials, color, letter style and placement, lighting, and overall general effect on the building and Historic District.

(5) For accessory structures, the following shall apply:

a. Existing characteristic features such as trees, walls, fencing, walkways and other similar structures or site features that reflect the building's or district's history and development shall be retained.

b. Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure and the district.

(i) Historic Yorktown Design Committee

(1) *Creation* - For the general purposes of this Article and specifically to preserve and protect the historic character of Yorktown, there is hereby created a committee to be known as the Historic Yorktown Design Committee (HYDC) to be composed of three (3) voting members. The members of the HYDC shall be appointed by the Board of Supervisors. The Board of Supervisors may, at its discretion, also appoint up to two alternate members to be called upon to sit with the Committee as regular voting members from time to time to ensure that a quorum is present.

(2) *Terms* - The members of the HYDC shall serve overlapping terms of four (4) years. Initially, one (1) member shall be appointed for a term of one (1) year, one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for a term of

three (3) years. Thereafter, all appointments shall be made for a term of four (4) years. Reappointments shall be in accordance with such policies as may be established by the Board of Supervisors. Vacancies on the HYDC shall be filled within sixty (60) days of the vacancy occurring.

(3) *Removal* - Any member of the HYDC may be removed from office by the Board of Supervisors for inefficiency, neglect of duties, or malfeasance. An appointment to fill a vacancy shall be only for the unexpired term of the vacancy.

(4) *Composition of the Board* - Members of the HYDC shall be residents of York County and shall be residents or property owners from the Yorktown Historic District.

(5) *Officers* - The HYDC shall elect from its own membership a chair and vice chair who shall serve annual terms and may be elected to successive terms. The secretary of the HYDC shall be a staff member in the employ of the county

(6) *Powers and Responsibilities* - The HYDC shall be responsible for administering and overseeing the implementation of the Yorktown Design Guidelines and shall have the power and authority to issue or deny certificates of appropriateness for construction, reconstruction, exterior alteration, demolition, and relocation within the historic district The HYDC shall also assist and advise the Board of Supervisors and property owners in matters involving historically significant sites and buildings or other properties in the Historic District.

(7) *Records of Meetings* - A record shall be kept of all pertinent information presented at all meetings and of all decisions by the HYDC.

(8) *Annual Report* - The HYDC shall report on an annual basis to the Board of Supervisors on its activities.

(j) Applications for and Processing of Certificates of Appropriateness

(1) *Pre-application Conference* - Prior to the formal submission of a proposed plan and application for a certificate of appropriateness, the applicant or his or her representative may hold a conference with York County staff concerning the proposal. At that time the applicant is encouraged to submit and discuss l preliminary studies of the concept of the proposed action and seek comments and recommendations.

(2) *Information Required* - Applications for certificates of appropriateness shall be submitted on a form available from the County. In general, information required will include a site plan, if appropriate, current color photographs of the subject building, structure or site and adjacent buildings and sites, elevations where exterior changes are proposed, information on proposed ground disturbances, and samples of or information describing the materials to be used, including color samples. Other material as may be necessary will be listed on the application form. The staff or the HYDC may also require additional information including, but not limited to, models, visual simulations, and color renderings.

(3) *Frequency of Meetings* - The HYDC shall hold an annual meeting each year during the month of January and shall, at the annual meeting, adopt a schedule of regular monthly meeting dates for the balance of the calendar year. The HYDC shall meet at least once in each calendar month, provided, however, it need not meet if no applications have been filed or are pending. Applications for HYDC review shall be filed at least twenty-one (21) days prior to the date of the meeting at which the request is to be considered.

(4) *Public Notice* - Meetings of the HYDC shall be open to the public. Notice shall be given to all applicants and adjacent property owners and notice of all meetings of the HYDC, and the applications to be reviewed shall be set at least seven (7) days prior to the meeting. A sign shall be posted on the subject property by the County indicating the date of the hearing to consider the applicant's request. The HYDC may accept written and oral comments concerning applications under consideration.

(5) *Standards and Guidelines for Review* - The HYDC shall be guided in its discussion and review of applications by the standards and guidelines set forth in Section 24.1-377(h).

The HYDC shall give reasons for its decisions, shall act promptly on applications before it, and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this Chapter and other provisions of the York County Code.

The HYDC is not required to limit new construction, alterations, or repairs to the architectural style of any one period and may seek advisory assistance from experts in such fields, as it may deem necessary and appropriate.

(6) *Decisions and Findings* - In all final decisions rendered, the HYDC shall briefly state its findings in writing, and in the case of disapproval, it may make recommendations to the applicant with respect to changes in the design, texture, material, color, line, mass, dimension or lighting of the alteration or improvements that would make it approvable. Such findings and recommendations shall be set forth in the regularly maintained minutes of the HYDC.

Within five (5) business days of approval of a request, a certificate of appropriateness, signed by the secretary of the HYDC and the Zoning Administrator and bearing the date of issuance, shall be issued, attached to the application, and forwarded to the applicant. Once the certificate has been issued, the Zoning Administrator shall routinely inspect the work being performed to ensure compliance with the terms of the certificate of appropriateness.

(7) *Timely Action* - The HYDC shall have sixty-five (65) days from the receipt of a completed application to render its decision. If no decision has been made by the HYDC within this time frame, and no mutual agreement between the applicant and the HYDC has been made for the extension of the time period, the Zoning Administrator shall submit the application to the Board of Supervisors, which shall review the application in the same manner as if a decision of the HYDC had been appealed.

(8) *Action on Related Permits* - The Building Official shall not issue a permit for any erection, reconstruction, exterior alteration, restoration, demolition, or razing of a building or structure in the Historic District until the same has been reviewed and approved by the Zoning Administrator, the HYDC as required herein, or on appeal by the Board of Supervisors or the circuit court.

(9) *Expiration of Certificates of Appropriateness* - Any certificate of appropriateness issued pursuant to this article shall expire twelve (12) months from the date of issuance if the work authorized thereby has not been commenced and diligently and substantially pursued. Such certificate shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve (12) months after being commenced. On written request from an applicant, the HYDC may grant a single extension of its approval for a period of up to one (1) year if, based upon submissions from the applicant, the HYDC finds that conditions on the site and in the area of the proposed project are essentially the same as when approval originally was granted.

(k) Applications for Demolition (Reference Section 15.2-2306 A.3, Code of Virginia)

(1) Prior to the issuance of a certificate of appropriateness for demolition of a *Pivotal* building or structure within the district, the HYDC shall make the following findings:

a. The purpose and necessity of the demolition are in accordance with the intent of the historic district.

b. Loss of the structure would not be adverse to the district or the public interest by virtue of its uniqueness or its significance to the district.

c. Demolition would not have an adverse effect on the character and surrounding environment of the district.

d. Where a development plan for a new use of the site is proposed and submitted, the HYDC shall review the proposed development pursuant to the regulations and intent of the district. Consideration shall be given to the benefits of the proposed development and the trade-offs for demolition of the building or structure.

(2) In addition to the authorization procedures set out above and the right of appeal as set forth in Section 24.1-377(l), the owner of a *Pivotal* building within the district shall as a matter of right be entitled to demolish such Pivotal building provided that:

a. The property owner has applied, on appeal, to the Board of Supervisors for such right; and

b. The owner has for the period of time set forth in the time schedule and cost parameters set forth in Section 15.2-2306 A. 3. of the *Code of Virginia*, 1950, as it may be amended from time to time, made a bona fide offer to sell such building and the land pertaining thereto, to the county, or to any person, firm, corporation, government or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building and the land pertaining thereto; and

c. No bona fide contract binding upon all parties thereto shall have been executed for the sale of any such building and the land pertaining thereto, prior to the expiration of the application time period set forth in the time schedule contained in Section 15.2-2306 A. 3. of the *Code of Virginia*, 1950, as it may be amended from time to time.

d. Before making a bona fide offer to sell, as provided herein, an owner shall first file a statement with the Zoning Administrator identifying the property, stating the offering price, the date the offer of sale is to begin and the name of the real estate agent. No time period as set forth in the schedule above shall begin to run until such statement has been filed. Within fourteen (14) days of receipt of a statement, the Zoning Administrator shall distribute copies to the Board of Supervisors, the Historic Yorktown Design Committee, and the County Administrator.

e. Any appeal taken to the Court with respect to a decision of the Board of Supervisors concerning demolition shall not affect the right of the owner to make the bona fide offer to sell referred to above; provided, however, that no offer to sell shall be made more than one year after a final decision by the Board of Supervisors but, thereafter, the owner may renew his request to the Board of Supervisors for authorization of the demolition.

(l) Appeals

(1) *Appeal to the Board of Supervisors* - In any case in which the applicant is dissatisfied with the decision of the HYDC on an application for a certificate of appropriateness the applicant may appeal the decision to the Board of Supervisors within thirty (30) days of the decision by filing a notice of appeal with the Clerk of the Board of Supervisors. In exercising its powers, the Board of Supervisors may, in conformity with the provisions of this Article, reverse or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination made by the HYDC and make such order, requirement, decision, or determination as ought to be made.

(2) *Appeal to the Circuit Court* – The applicant or the aggrieved owner of any property that is adjacent to the subject property shall have the right to appeal any final decision of the Board of Supervisors pursuant to this article to the Circuit Court by following the procedure set out in Section 15.2-2306 of the *Code of Virginia,* 1950, as amended.

(Ord. No. 03-13(R-1), 12/2/03; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-378. Route 17 corridor overlay district.

(a) Statement of intent. In accordance with section 15.2-2306 of the Code of Virginia and the objectives of the comprehensive plan, the Route 17 corridor overlay district regulations are designed and intended to protect the aesthetic and visual character of the Route 17 corridor leading to the Yorktown historic district. All development proposed within the corridor shall be subject to the procedures and standards set forth in this section in addition to those required by the underlying district regulations. Primarily, this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county along this corridor. The provisions that follow include both requirements (using the word “shall”) that must be met and recommendations (using the word “should”) that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.

(b) Applicability. The special provisions established in this section shall apply to development on parcels which are located along Route 17 between the Newport News city line and Cook Road. The overlay designation shall apply to all parcels with frontage on Route 17 and shall extend to the depth of the property or 500 feet, whichever is less.

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the existing right-of-way line, or the future right-of-way line if the proposed development will be required to add right-of-way either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

(c) Use Regulations. Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

(d) Special architectural standards.

(1) No portion of a building façade facing (i.e., parallel to) or highly-visible from a public right-of-way shall be constructed of barren or unfinished concrete masonry unit (cinder block), corrugated material, sheet metal or vertical metal siding. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding, Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.

(2) Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation highlights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.

(3) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.

(4) Large work area doors or open bays that open toward or face Route 17 should be avoided. Such features, whether front, side or rear-facing, shall be buffered from view from view from Route 17, adjacent roadways and development by architectural elements and/or decorative fencing and/or evergreen landscaping.

(5) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.

(6) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a decorative style that is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but wherever possible shall be buffered from direct view by appropriate landscaping.

(7) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g. tinted or reflective windows) shall not be counted against the three-color limitation. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the Corridor Overlay Color Palette which shall be defined as those exterior colors represented on such color charts as are approved by resolution adopted by the Board of Supervisors from time to time. The adoption of a particular color chart shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those

specifically shown on the referenced palette. Semitransparent stains are recommended for application on natural wood finishes. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.

(8) The use of colors commonly referred to as “neon” or “fluorescent” and which are unnaturally bright shades of red, orange, yellow, green, or blue shall not be permitted on signs.

(9) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as “trucks” by the Department of Motor Vehicles and used in the operation of the business shall be considered “outdoor storage” and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.

(10) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.

(11) Site landscaping should be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.

(12) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:

a. Comprehensive sign plan including design, materials, and colors to be utilized.

b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.

c. Rendering or photo-simulation of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in sub-paragraph b. above.

d. The location and design of all proposed exterior site lighting within the proposed development.

e. Photographs or drawings of neighboring uses and architectural styles.

(e) Appeals. In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the

Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 10-24, 12/21/10)

Sec. 24.1-379. Route 17 commercial corridor revitalization overlay district.

(a) Statement of Intent: The Route 17 Commercial Corridor Revitalization Overlay District is established to encourage re-use and redevelopment of physically constrained properties, as defined herein, in a manner that is beneficial for the corridor and economically viable for the property owner. The district is designed to provide additional flexibilities for development and redevelopment situations on such properties with the objective of restoring those properties to an economically viable and attractive component of the commercial corridor.

(b) Permitted Uses: All uses permitted as a matter of right and by special use permit shall remain as established in the underlying zoning district regulations, unless specifically noted in this section.

(c) Special Performance Standards: The following special performance standards shall apply to physically constrained properties within the Route 17 Revitalization Overlay District. Where the overlay district provisions impose a lesser standard than the provisions established elsewhere in the Zoning Ordinance, the less restrictive standards shall apply. Physically constrained properties shall be those which have the following characteristics:

- lot width is less than 80 feet or lot depth is less than 100 feet; or
- lot size is less than 20,000 square feet; and
- buildings or site improvements are situated so as not to comply with applicable setback or other dimensional standards prescribed for the underlying district (the applicable setback dimension shall take into account any right-of-way reservation requirement that would apply to the property based on programmed road improvements); and
- the property has been designated as blighted by resolution of the Economic Development Authority. For the purposes of this section, blighted properties shall be deemed to be those with buildings or improvements which, by reason of dilapidation, obsolescence, over-crowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health or welfare of the community and the appearance and economic vitality of the Route 17 corridor:

(1) Damage or Destruction: The provisions of Section 24.1-802(b) notwithstanding, where a nonconforming building or structure located on a property meeting the above criteria is demolished on the owner's initiative, a new building or structure may be constructed on the site meeting the same setbacks as previously existed, provided however, that for the new structure no front setback shall be less than thirty (30) feet and no side or rear setback shall be less than five (5) feet and provided further that the new structure is architecturally compatible with its surroundings and will contribute positively to the surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. Such 30-foot setback shall be measurable from the existing front property line and the normal requirement to measure setback dimensions from the boundary of any right-of-way reserve area shall not apply, provided however, that no structure shall be placed less than ten (10) feet from any right-of-way reservation line.

(2) Additions: The provisions of Sections 24.1-802(a) and 24.1-804 notwithstanding, additions to a building with nonconforming setbacks on a property meeting the above criteria may be constructed in line with any existing nonconforming front setback dimension of thirty (30) feet or more, provided that no side or rear setback shall be less that five (5) feet, and provided further that the exterior of the blighted structure shall be renovated or

repaired so that the existing structure and the addition are architecturally compatible and contribute positively to their surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. In no event shall an addition be permitted if it would have a setback of less than ten (10) feet from any right-of-way reservation line.

(3) Landscaping: The provisions of Section 24.1-244 notwithstanding, the front landscape yard dimension on a property meeting the above criteria may be reduced by one (1) foot for every one (1) foot in depth of public right-of-way adjoining the property that is suitable for installation of landscaping (e.g., those areas which are located outside and behind ditches or behind curb lines, and which are not encumbered by utilities, needed for future road widening, or otherwise unsuitable for the establishment and maintenance of landscape plantings), and which the property owner agrees in writing to landscape and maintain, provided that the Virginia Department of Transportation shall consent to the establishment of the landscaping. The maximum reduction in the depth of the landscape yard available under this provision shall be ten (10) feet. The property owner shall be responsible for landscaping and maintaining the subject area, both the private and public property areas, in accordance with the front yard landscape planting ratios and requirements specified in this Chapter.

(4) Parking:

a. Paving: The provisions of Section 24.1-607 notwithstanding, the Zoning Administrator may authorize the continued use or expansion of an existing gravel parking lot for a reuse or redevelopment proposal on a property meeting the above criteria where paving would be the sole cause for installation of stormwater management facilities to address water quality issues. Such authorization shall be contingent on the following:

1. the property owner shall install appropriate timber-bordered landscape islands and other delineators to define circulation aisles and parking spaces;

2. the parking lot shall be surfaced in a brown river stone aggregate mix with sufficient variation in stone sizes to ensure proper compaction and maneuverability; and

3. the parking lot shall be screened from view from Route 17 or other abutting roads by landforms and/or an evergreen hedgerow or similar landscape treatment approved by the Zoning Administrator.

(5) Impervious Surface: The provisions of Section 24.1-376 notwithstanding, the zoning administrator may authorize, after such consultation with the director of Newport News Waterworks as the zoning administrator may deem advisable, the reuse or redevelopment of a property meeting the above criteria and including a stormwater management system that addresses the pre-development/post-development runoff quality requirements specified in Section 24.1-376(f)(1)d. of this chapter in an alternative and equivalent manner.

(Ord. No. 05-13(R), 5/17/05))

Secs. 24.1-380—24.1-399. Reserved.

ARTICLE IV. PERFORMANCE STANDARDS FOR USES

Sec. 24.1-400. Purpose and intent.

It is the purpose of this article to establish performance standards for the various categories of land use allowed in the county. The purpose of such performance standards is to ensure compatibility with surrounding uses, conformity with the adopted comprehensive plan, and the protection of the public interest and welfare. Henceforth, all proposed developments and uses of land shall be designed and constructed in accordance with the applicable portions of these standards based on the category of the use.

DIVISION 1. RESIDENTIAL USES

Sec. 24.1-401. Standards for single-family detached dwellings.

(a) Every dwelling shall be served by a driveway which has an all-weather surface and is maintained in a condition passable by emergency vehicles at all times.

(b) The minimum spacing between the tangent point of an intersection and permitted driveways, and between driveways themselves shall be twenty feet (20') unless a greater distance shall be specified in the subdivision ordinance. The zoning administrator may reduce this spacing requirement for lots platted prior to December 1, 1991, upon a determination that adherence to the twenty-foot (20') separation standard is not possible or not practical given the existing development of adjacent properties or the topography of the subject parcel.

Sec. 24.1-402. Standards for open space development (cluster techniques).

(a) In those districts where permitted, cluster techniques may be utilized to create open space developments, provided that a minimum gross land area of ten (10) acres is available and utilized. Acreage that is continually inundated, or which is subaqueous, shall not be counted as “land area” for the purposes of this section. Additions to existing open space developments of less than ten (10) acres may be approved if the zoning administrator finds that such an addition forms a logical extension.

(b) Density calculations shall be based on net developable acreage as determined by section 24.1-203 of this chapter and the following formula:

$$\text{Lot Yield} = \frac{\text{Net Developable Acreage} \times /_{SR}}{\text{Minimum Conventional Lot Size of the Zoning District}}$$

Where $/_{SR}$ is a reduction factor to account for streets and recreation space required in conventional subdivisions and is based on the zoning districts in which the proposed development is to be located:

District	$/_{SR}$
RC	0.875
RR	0.850
R33	0.850
R20	0.825
R13	0.800

Fractional units may be rounded up to the next whole number.

(c) *Yard, size and dimension requirements*.

(1) There are no lot width or area requirements.

(2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development unless the abutting development shall have been developed as an open space development. In the case of any open space development receiving Preliminary Plan approval after October 20, 2009, the building setback requirement from any property line on the perimeter of the development shall be the same dimension as would be required for a conventional development unless the lot abuts another open space development or an open space area not less than forty-five feet (45') in width. A lot shall be considered to be abutting unless it is separated by an area of open space which is not less than forty-five feet (45') in width. Any open space strip used to satisfy this requirement shall remain undeveloped, except for stormwater management facilities if approved as specified below, and shall be maintained in its natural state if wooded or, if void of vegetation or undervegetated, it shall be landscaped to meet Type 25 Transitional Buffer standards, as established in section 24.1-243 of this chapter. Such open space area shall not be used to accommodate stormwater management facilities unless such stormwater management facilities are set back at least twenty five feet (25') from any property not in the open space development. Existing trees and vegetation within such setback area shall be preserved and protected and/or the area shall be landscaped to meet the planting standards of a Type 25 Transitional Buffer. With the concurrence of abutting property owners, the landscaping along all or portions of the 25-foot wide buffer strip may be eliminated or reduced in scope so as not to obscure desirable views of a BMP feature such as a pond or lake.

(3) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.

(4) The minimum setback from internal public streets shall be thirty feet (30') and from internal private driveways or streets the setback shall be established on the plan of development, but in no case shall it be less than ten feet (10').

(5) The minimum distance between any two principal buildings within the open space development shall be twenty feet (20'). Side yard dimensions on each individual lot shall be a minimum of ten feet (10') in depth and rear yard dimensions shall be a minimum of twenty feet (20') in depth. Accessory building locations and setbacks shall be governed by the provisions set out in Section 24.1-273 of this Chapter.

(6) Flag lots, if proposed, shall be subject to the limitations and dimensional standards set forth in Section 24.1-202(c) of this chapter.

(d) *Open space requirements*.

(1) No less than forty percent (40%) of the gross area of an open space development shall be reserved as common open space, including recreational space, which shall be maintained for the benefit of the residents of the development. Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of thirty percent (30%) of the required open space. In addition, in the event the developer of a proposed open space development dedicates or willingly sells to the County land from the parent tract for the purpose of development of one or more of the following community-enhancing public facilities, the land area involved in such transaction shall be creditable on an acre for acre basis toward the open space requirement for the project, to the extent that such credit does not exceed fifty percent (50%) of the amount of open space that would otherwise be required for the development. Land intended by the County for use as one or more of the following purposes shall be eligible for such credit:

- school
- park
- recreation center (indoor or outdoor)
- community center
- library
- such other facility as the Zoning Administrator determines to be materially similar.

The identification of such land and conveyance of the subject property to the County shall occur prior to or contemporaneously with the approval of the construction plans (Development Plans) for the proposed residential project. Nothing in this section shall be deemed to supersede the provisions of Section 15.2-2232 of the Code of Virginia which require that the location of public facilities be found to be substantially in accord with the adopted Comprehensive Plan.

(2) All areas not included in lots or street rights-of-way shall be incorporated into common open space.

(3) The common open space shall be arranged and designed so as to facilitate its use, ensure continuity of design, and preserve sensitive environmental features. Failure to achieve these goals shall be sufficient reason for the zoning administrator to deny applications for open space development plan approval or to require modifications which may include loss of lots.

(e) *Recreational space requirements*.

(1) Recreational space equivalent to no less than seven and one-half percent (7.5%) of the gross land area shall be provided and shall be suitable, as determined by the zoning administrator, for recreation purposes and the development of recreational facilities which are appropriate to the size, scale, and market orientation of the development. Recreation areas shall not abut the exterior boundary of the open space development.

(2) Within the recreation space shall be developed, at a minimum, an open play field, a playground or tot lot, and a picnic area, all of which shall be located, sized and scaled in proportion to the development.

(3) The zoning administrator may modify the requirement for recreational space in any manner deemed appropriate or necessary for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.

(4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing and planned external pedestrian and bicycle facilities.

(f) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions in the county subdivision ordinance.

(g) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a property owners association which shall also be recorded at the time final plats are put to record.

(h) Development density may be increased if recreation area in excess of the seven and one-half percent (7.5%) prescribed by the subdivision ordinance is provided and developed. Density increases shall be limited to a maximum of ten percent (10%) and shall be granted in increments of one percent (1%) for each additional two percent (2%) increment of recreation space.

The proposed active recreation facilities shall be approved by the zoning administrator as being appropriate to the size and market orientation of the development and shall either be constructed or guaranteed for construction through an agreement and surety acceptable to the county attorney prior to the platting of any lots over fifty percent (50%) of the total number authorized in the open space subdivision.
(Ord. O97-5, 2/5/97) (Ord. No. 03-43, 12/16/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 09-22(R), 10/20/09; Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-403. Standards for single-family attached dwellings.

The following standards shall be required of all single-family attached developments. Evidence of compliance shall be demonstrated through preparation of a site plan in accordance with all requirements of article V.

(a) A single-family attached dwelling unit development or project shall consist of at least five (5) acres except where the zoning administrator determines in writing that allowing development on a smaller parcel of land would facilitate the logical "in-fill" development of vacant parcels and promote efficient land use.

(b) All dwelling units shall be served by public water and public sewer.

(c) The development project shall be designed to promote harmonious relationships with surrounding properties through attention to the type, orientation, spacing and setback of buildings, preservation of natural vegetation, location of recreation areas, open spaces, parking areas, grading, landscaping, and screening and buffering.

(d) The density of the single-family attached dwelling unit development shall not exceed the maximum allowable density for the particular district in which located. Maximum allowable density shall be calculated using net developable acreage as determined in accordance with section 24.1-203.

(e) There shall be no more than six (6) units in any contiguous grouping of townhouse or multiplex units. No more than two (2) abutting attached units shall have uniform roof lines or the same setback. Variations in the setback of building faces shall be at least three feet (3').

(f) The single-family attached development shall be surrounded by a perimeter buffer area of at least twenty-five feet (25') in width. Where feasible, existing mature and healthy trees located throughout the buffer area shall be preserved and protected during and after the development process. Where existing trees must be removed, or few or no trees previously existed throughout the buffer area, trees shall be planted in sufficient numbers to achieve a landscaping ratio of at least one tree, either existing or newly planted, for each five hundred (500) square feet of buffer area. The provisions of this section shall not be construed to require cutting of existing stands of mature healthy trees within such buffer areas nor to require a regimented planting pattern. The final landscaping plan shall ensure that plant materials consistent with the standards established in article II-division 4, are located throughout the buffer areas. Required yards for individual units shall not extend into such areas.

(g) Each single-family attached dwelling unit shall have direct access to a private rear or side yard or patio area which should be enclosed or visually screened by fences, walls or plantings. Accessory storage sheds, fences, walls or other structures, designed and constructed at the time of development as an architecturally compatible addition to the dwelling unit, may occupy up to sixty (60) square feet of the required rear or side yard area. Such sheds shall not exceed six feet (6') in width nor ten feet (10') in depth and shall be located along one of the side lot lines in order to serve as a privacy screen and to maximize the usefulness of the remaining yard/patio area. Other provisions of this chapter notwithstanding, required yard setback dimensions shall be measured to the unit rather than to any attached accessory structure.

In addition to the above-described standards, the following provisions shall apply in the situations noted:

(1) When the rear lot line of a single-family attached unit abuts a common open space strip of at least twenty feet (20') in width, or where the rear lot line faces the side lot line of an adjoining unit and is separated from it by a common open space strip of at least ten feet (10') in width, there may be, as a part of the original construction, or as a later addition, a single-story attached room, storage shed, patio enclosure, screened porch, awning, or other similar structure which projects into the required fifteen foot (15') setback by as much as ten feet (10'). No such extension shall be closer to a side lot line than otherwise authorized by the applicable dimensional regulations.

(2) Detached single-story storage sheds or similar structures may be located within the required fifteen foot (15') rear yard area and along a side or rear property line provided that they do not exceed sixty (60) square feet in area, are located at least five feet (5') from the principal structure, and the rear lot line abuts a common open space area of at least twenty-five feet (25') in width.

(3) For the purposes of administering the provisions set forth in Sections 24.1-403(g)(1) and (2) above, for a quadruplex lot or other residential lot in a multiplex grouping in which units are arranged back-to-back and side-to-side, no additions or accessory structures shall be permitted in yards that abut a public or private street or parking area.

(h) Each single-family attached unit lot shall abut a public street, private drive, group parking area or common open space area. All applicable setback and yard requirements shall be maintained between all units and any public street right-of-way, private drive, group parking area or common open space area. Individual lots shall not be arranged or designed to have frontage on or direct vehicular access to a street proposed for or capable of future acceptance into the State system unless all applicable design requirements of the Virginia Department of Transportation are adhered to. Individual lots and units shall be arranged in accordance with the following criteria:

(1) Not more than twenty-four (24) units shall be served by a group parking area or private drive having only one point of connection with a public street or an authorized private collector street;

(2) Up to forty-eight (48) units may be served by a group parking area or private drive having two points of connection with a public street or an authorized private collector street. For each additional increment of twenty-four (24) units, an additional point of connection to a public street or an authorized private collector street shall be required.

(i) Pedestrian and emergency access to the rear of individual lots shall be available via a common open space strip or access way of at least ten feet (10') in width over which shall be granted a public access easement. No lot or group of attached units shall be arranged such that access to the rear portion of a lot would require crossing any other lot or lots. Access between the ends of buildings or unit groupings shall be provided by a common open space strip of at least ten feet (10') in width over which shall be granted a public access easement. The maximum distance between such accessways shall be two hundred feet (200').

(j) All single-family attached development shall be designed to accommodate safe and convenient pedestrian and bicycle movements. This shall include adequate provisions for safe, secure, and convenient bicycle parking as well as for internal pedestrian and bicycle circulation which is appropriately connected to the external street, sidewalk and bikeway system.

(k) Fire hydrants shall be installed within the project at locations such that no structure, or portion thereof, within the project shall be further than six hundred feet (600') from a hydrant.

(l) *Streets*.

(1) All collector and through streets within the proposed development shall be constructed and dedicated for acceptance by the Virginia Department of Transportation, provided, however, that the zoning administrator may specifically authorize a private street system in order to facilitate a secured development where general public access would not be permitted. All public and private streets shall be designed in accordance with the design requirements contained in the subdivision ordinance or those published and amended from time to time by the Virginia Department of Transportation, whichever is more stringent.

(2) All public and private streets and private drives shall be constructed with curb and gutter.

(3) Pavement design for all public and private streets shall conform, at a minimum, to the criteria and specifications of the Virginia Department of Transportation. This shall specifically include accommodating the turning radii of emergency and service delivery equipment.

(4) Access to any single family attached development shall be in accordance with the following requirements:

a. All such projects containing twenty-five (25) or more units shall have at least two (2) points of access or connection to the existing public street system;

b. Such access shall not be through a single-family detached residential subdivision.

(m) Stormwater runoff from streets and parking areas within the project shall be conveyed by a storm sewer system which shall consist of curbs and gutters at the edges of pavement, curb drop inlets, and storm sewer piping in accordance with Virginia Department of Transportation and county specifications.

(n) Outdoor lighting shall be provided at appropriate locations in order to illuminate adequately group and recreational vehicle parking areas and pedestrian, bicycle, and vehicular circulation routes. Such lighting fixtures and illumination levels shall be designed and arranged to be compatible with both natural and architectural characteristics of the development and the surrounding area.

(o) *Parking.*

(1) Off-street parking spaces shall be provided and designed in accordance with the provisions of article VI of this chapter.

(2) Required off-street parking spaces shall be designed and located so as to promote safe and convenient vehicular, bicycle and pedestrian circulation. Individual townhouse or multiplex parking spaces shall not generally be located in such a manner as to allow vehicles to enter or exit such space directly from a public street.

(3) Visitor parking shall be interspersed conveniently throughout the development.

(4) Parking spaces located on individual dwelling unit lots shall be a minimum of nine feet by eighteen feet (9' x 18') in dimension. Where such spaces are located on the individual lots, or where attached garages and driveways are provided, a minimum of 400 square feet of setback green area having a minimum dimension of ten feet (10') in any direction shall be provided in front of the single-family attached unit.

(5) The location of parking pads on the individual dwelling unit lots shall be varied in order that not more than two (2) two-car pads (4 spaces) are located side by side without an intervening landscaped strip at least eight feet (8') in width. Any proposed garages, carports or similar parking space enclosures on an individual lot shall be subject to applicable setback and yard requirements.

(6) Parking areas shall be designed in consideration of the maneuvering needs of emergency equipment.

(7) One or more common storage areas shall be provided to accommodate recreational vehicles owned by residents. Within these areas, recreational vehicle parking spaces of twelve feet by thirty feet (12' x 30') shall be provided at a ratio of one (1) space per ten (10) dwelling units. Such area(s) shall be separated from living areas and shall be lighted, appropriately screened by landscaping or decorative fencing, and constructed with an all-weather surface.

(p) Where an existing or planned transit route is located in proximity (1,000 feet) to the development, provision shall be made for a transit stop at a convenient point where the development abuts a public street which is classified as a major collector or higher order street.

(q) A minimum of fifteen percent (15%) of the gross acreage in the development shall be set aside as common open space. At least fifty percent (50%) of this required common open space shall be suitable by reason of location, topography, and configuration for the development of active recreation facilities. Such facilities shall not abut the exterior boundary of the development.

(r) Single-family attached units and developments shall be designed to accommodate recycling programs. Development-wide accommodations may include provisions for conveniently located dumpsters dedicated to recyclables collection or other appropriate effort(s) which facilitate recycling.

(Ord. No. 04-11, 6/1/04)

Sec. 24.1-404. Standards for multi-family dwellings.

All multi-family development shall comply with the following standards. Evidence of compliance shall be demonstrated through preparation of a site plan in accordance with all requirements of article V.

(a) All dwelling units shall be served by public water and public sewer.

(b) The density of multi-family development projects shall not exceed ten (10) units per acre, calculated using net developable acreage as determined in accordance with section 24.1-203.

(c) The development project shall be designed to promote harmonious relationships with surrounding properties through attention to the type, orientation, spacing setback of buildings, preservation and maintenance of natural vegetation, location of recreation areas, open spaces, parking areas, grading, landscaping, screening and buffering.

(d) Multi-family structures shall be designed and arranged as follows:

(1) Where units are arranged to resemble individual townhouses, no more than six (6) such units may be in any one (1) contiguous grouping or structure.

(2) No single apartment building shall contain more than twelve (12) dwelling units.

(3) The maximum length of any continuous multi-family structure shall be two hundred feet (200').

(e) The development shall be surrounded by a perimeter buffer area of at least fifty feet (50') in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to meet the Type 50 Transitional Buffer standards.

(f) Front, side and rear yards shall be provided around each building in the development in a manner which provides a minimum of twenty-five feet (25') of open landscaped space surrounding each building. No two buildings within the project shall be located closer to one another than thirty feet (30').

(g) A minimum of four hundred (400) square feet of common recreation area shall be provided for each dwelling unit in the development. Such areas shall be arranged and improved to provide suitable recreational opportunities, both active and passive, for the residents of the development. Such area need not be concentrated in one central location but may be interspersed throughout the development, if done in a manner which provides appropriate areas conveniently located to all units. No individual recreational area may be less than twenty-five feet (25') in any linear dimension nor located closer than seventy-five feet (75') to any building. Up to twenty-five percent (25%) of the total required open space may be included within the required perimeter setback area provided that the buffer width is not reduced below twenty-five feet (25').

(h) Fire hydrants shall be installed within the project at locations such that no building or portion thereof within the development shall be further than six hundred feet (600') from a hydrant.

(i) The following design standards shall apply to private streets and circulation drives within the development:

(1) Pavement shall be designed and constructed in accordance with the Virginia Department of Transportation standards for streets having the same traffic volumes as the proposed private streets and drive.

(2) All streets, drives, and parking areas shall be constructed with curb and gutter designed in accordance with Virginia Department of Transportation specifications.

(3) Street widths shall be based on the anticipated traffic volumes of the street and shall be determined in accordance with the standards contained in the county subdivision ordinance.

(j) Access to any multi-family development project shall be in accordance with the following requirements:

(1) All such projects of twenty-five (25) units or more shall have at least two (2) points of access to the existing public street system;

(2) Such access shall not be through a single-family detached residential subdivision.

(k) All multi-family developments shall provide for safe and convenient pedestrian and bicycle circulation. This shall include safe, secure, and conveniently located bicycle parking facilities together with internal sidewalks, bike lanes, pathways, or trails which are appropriately connected to the external street, bikeway, and pedestrian systems.

(l) Where an existing or planned transit route is located in proximity (1,000 feet) to the development, provision shall be made for a transit stop at a convenient point where the development abuts a public street which is classified as a major collector or higher order street.

(m) Stormwater runoff from streets and parking areas within the project shall be conveyed by a storm sewer system which shall consist of curbs and gutters at the edges of pavement, curb drop inlets, and storm sewer piping in accordance with Virginia Department of Transportation and county specifications.

(n) Outdoor lighting shall be provided at appropriate locations in order to illuminate adequately group and recreational vehicle parking areas and pedestrian, bicycle, and vehicular circulation routes. Such lighting fixtures and illumination levels shall be designed and arranged to be compatible with both natural and architectural characteristics of the development and the surrounding area.

(o) One or more common storage areas shall be provided to accommodate recreational vehicles owned by residents. Within these areas, recreational vehicle parking spaces of twelve feet by thirty feet (12' x 30') shall be provided at a ratio of one (1) space per ten (10) dwelling units. Such area shall be lighted, appropriately screened by landscaping or decorative fencing, and constructed with an all-weather surface.

(p) Multi-family developments shall have facilities for the collection of recyclable materials constructed within each building and the development shall be arranged such that conveniently located community recyclables collection points are available within the development.

(Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-405. Standards for manufactured homes.

(a) *In conjunction with agricultural uses*.

(1) Such use may be authorized as an accessory use on a bona fide "working farm" located in any zoning district. For the purpose of this section, the term "working farm" shall be defined as an operation where the principal use is the production of agricultural products or the raising or keeping of animals or poultry or the growing of fruits or crops. The minimum area of any such "working farm" shall be ten (10) acres.

(2) Such manufactured home shall be in addition to, and not a substitute for, the principal single-family detached dwelling located on the property. No such manufactured home shall be located on a farm where an inhabitable single-family dwelling does not exist.

(3) Any manufactured home used pursuant to the terms of this section shall be served by a sewage disposal and water supply system, approved by the zoning administrator in

consultation with the health department and the director of environmental and development services.

(4) At least one occupant of the manufactured home shall be employed as a full-time worker on the farm, provided, however, that the owner of the farm shall not occupy the manufactured home.

(5) All such manufactured homes shall be certified as meeting federal safety and construction requirements as promulgated by the U. S. Department of Housing and Urban Development.

(b) *Manufactured homes not in conjunction with agricultural uses.*

(1) All such units shall be certified as meeting federal safety and construction standards promulgated by the U. S. Department of Housing and Urban Development.

(2) All such units shall be served by an all-weather driveway passable by emergency vehicles at all times.

(3) The unit shall be placed on a permanent foundation which is fully skirted.

(4) Landscaping shall be provided in accordance with a landscape plan to be submitted to and approved by the zoning administrator. All plant materials shall be installed by the end of the first available growing season following placement of the unit.

Sec. 24.1-406. Standards for manufactured home parks.

(a) The minimum size of any parcel considered for development of a manufactured home park shall be ten (10) acres.

(b) The suitability of a proposed location for a manufactured home park shall be determined by the board on a case-by-case basis with consideration given to guidance provided by the comprehensive plan, compatibility with existing and potential development in the immediate vicinity, the physical capabilities of the site to accommodate the proposed development, and such other factors as the board may deem pertinent.

(c) Manufactured home parks shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity. To these ends, site design on the perimeter of the proposed development shall give consideration to protection of the property from adverse surrounding influences, as well as protection of surrounding areas from potentially adverse influences from within the proposed development. In addition, a proposed manufactured home park shall be designed to relate harmoniously to the topography of the site, make suitable provisions for preservation and protection of water courses, wooded areas and other significant natural features and areas, and shall otherwise be so designed as to integrate such natural features and amenities into the overall project design.

(d) Manufactured home parks shall be designed in order to promote a visually attractive and pleasant living environment. Suggested design features include variation in street patterns, use of cul-de-sacs and curvilinear streets, variations in block shapes and sizes; clustering of manufactured home spaces, and variations in the placement of manufactured homes on the individual spaces.

(e) A minimum fifty foot (50') perimeter open space buffer area shall be provided and maintained along the property lines of the park. Such area shall be landscaped in accordance with the requirements for transitional buffers contained in article II, division 4 of this chapter and shall not be used for storage, services, parking, or placement of accessory structures.

(f) The minimum area of individual manufactured home spaces in the manufactured home park shall be four thousand six hundred (4,600) square feet for single-wide units and six thousand

(6,000) square feet for double-wide units. The overall density of the proposed manufactured home park shall be consistent with the density guidelines established in the comprehensive plan.

(g) In lieu of specific minimum width and depth requirements, manufactured home spaces shall be designed and arranged so as to ensure that the anticipated types and dimensions of manufactured homes may be accommodated on the space in accordance with the following performance standards:

(1) The minimum setback for manufactured homes, additions thereto, or accessory structures from any internal street rights-of-way or common parking areas shall be twenty-five feet (25').

(2) The minimum setback of manufactured homes or additions thereto from any side or rear boundary line of the manufactured home space shall be ten feet (10').

(3) The minimum spacing between adjacent manufactured homes or habitable additions thereto shall be twenty feet (20').

(4) The minimum setback for detached accessory structures shall be five feet (5') from any side or rear boundary line of the manufactured home space and ten feet (10') from the manufactured home or addition thereto.

(h) The manufactured home park shall provide common recreation space at a minimum ratio of four hundred (400) square feet for each manufactured home space. Such recreation and open space shall be comprised of both active and passive recreational areas and facilities, such as playgrounds, swimming pools, community buildings, separate paths for pedestrians and cyclists, and similar facilities. A primary pedestrian and bicycle system must be provided and shall be part of an overall system providing access between principal park features and recreational areas and to the external street, pedestrian, and bike network. To be counted toward fulfillment of the common recreation and open space area requirement, any space must have a minimum dimension of twenty-five feet (25'), provided, however, that the required pedestrian and bike system may be as narrow as ten feet (10') in width. The width and construction details of the pedestrian and bicycle network shall be shown on the site plan.

The area of required perimeter buffer areas, streets, common parking areas, or park management and service areas shall not be counted toward fulfillment of the common recreation space area requirement nor shall it be used for such purposes.

(i) Parking shall be provided in accordance with article VI of this chapter. Off street parking spaces may be located on the individual manufactured home space or in a common parking court located within one hundred feet (100') of the units to be served. Common parking areas shall be designed and constructed in accordance with all applicable requirements of article VI of this chapter. Not more than two (2) off-street parking spaces shall be provided on any individual manufactured home space and a minimum of four hundred (400) square feet of green area having a minimum dimension of ten feet (10') in any direction shall be provided between such parking spaces and the manufactured home. Parking spaces, whether in common areas or on manufactured home spaces shall be paved.

(j) Each manufactured home space shall abut and have direct access to an interior street or drive or to a common parking area. No manufactured home space shall be designed for direct access to a street outside the boundaries of the manufactured home park. The interior circulation system shall be designed to provide convenient and safe vehicular access to individual lots and, to the extent possible, individual manufactured home spaces should be arranged so as not to have direct access to the park's primary entrance drive(s).

(k) Interior streets shall be paved with a masonry, concrete, or asphalt surface and shall be designed and arranged in a logical and efficient hierarchy based on function. There shall be at least two (2) points of connection with a public street for up to forty-eight (48) manufactured home spaces. For

each additional increment of twenty-four (24) manufactured home spaces, an additional connection to a public street or an authorized private collector street shall be required.

Pavements shall be of adequate widths and cross section to accommodate the contemplated parking and traffic load and shall be designed in consideration of the maneuvering needs emergency vehicles. Pavement sections shall conform to the design categories of the Virginia Department of Transportation and the subdivision ordinance based on anticipated traffic volumes.

Parallel on-street parking shall necessitate an additional eight feet (8') of pavement width for each side of the street on which such parking is to be permitted.

Street rights-of-way shall be sufficiently wide to accommodate necessary drainage improvements, utilities, and pedestrian ways.

(l) All areas of the manufactured home park or individual manufactured home spaces not occupied by structural improvements shall be appropriately landscaped. Such landscaping shall include at least two (2) trees on each manufactured home space supplemented with low growing shrubs and complete grassing of such space and, further, at least one (1) additional tree shall be provided in the park for each two (2) manufactured home spaces, not counting trees in the perimeter buffer area. Standards and criteria established for landscaping in article II, division 4 of this chapter shall be observed.

(m) All manufactured home parks shall be served by both public water and public sewer. Each manufactured home space shall be provided with individual water and sewer connections providing service to the public systems. Fire hydrants shall be located at intervals of not more than six hundred feet (600') throughout the manufactured home park.

(n) The corners of each manufactured home site shall be clearly defined by permanent ground markers corresponding to the layout and design indicated on the approved site plan. The division of land into individual lots for transfer of title shall not be permitted in manufactured home parks.

(o) Only those manufactured homes constructed in accordance with the "Manufactured Home Construction and Safety Standards" promulgated by the U. S. Department of Housing and Urban Development, and bearing the appropriate seals and labels to certify compliance with such regulations, may be located in any manufactured home park subject to these regulations. Only single-story manufactured homes shall be permitted in manufactured home parks.

(p) Manufactured homes shall be located on the space and anchored in accordance with the provisions of the Virginia Uniform Statewide Building Code. All plumbing, electrical, mechanical and similar exterior attachments or additions to the manufactured home or the individual manufactured home space shall be constructed in compliance with the provisions of the Virginia Statewide Building Code.

(q) Permanent masonry walls or prefabricated metal or vinyl skirting, designed, constructed and maintained so as to completely conceal the undercarriage of the unit and fixtures thereto, shall be installed in accordance with the Virginia Uniform Statewide Building Code around the entire perimeter of all units.

(r) One or more common storage and parking areas shall be provided to accommodate recreational vehicles owned by park residents. Within such area(s), recreational vehicle parking spaces of twelve by thirty feet (12' x 30') shall be provided at a ratio of one space per ten (10) manufactured home spaces. Such area(s) shall be separated from the living areas of the park and shall be lighted, appropriately screened with landscaping supplemented by decorative fencing and constructed with an all-weather surface.

(s) Solid waste disposal shall be provided through centralized dumpsters, including facilities for the collection of recyclables, which are conveniently located to serve groups of manufactured homes.

(t) If centralized or grouped mailboxes are to be used in the park in lieu of individual mailboxes at each manufactured home space, the design of the mailbox structure and grouping shall be submitted to the zoning administrator for review and approval.

(u) Outdoor lighting shall be provided at appropriate locations in order to adequately illuminate group and recreational parking areas and pedestrian and bicycle and vehicular circulation routes. Such lighting fixtures shall be designed and arranged to be compatible with both natural and architectural characteristics.

(v) The developer of a manufactured home park shall be responsible for the proper maintenance of all portions of the park including streets, common parking areas, and recreation areas, open space and buffers. Applications for authorization of a manufactured home park shall be accompanied by a copy of the proposed park rules and regulations and plans and procedures for maintenance of all common areas.

(w) Where an existing or planned transit route is located in proximity (1,000'±) to the manufactured home park, provision shall be made for a transit stop at a convenient point where the development abuts a public street.

Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.

(a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.

(b) Accessory apartments, whether attached to the principal structure (the single-family dwelling unit) or in a detached accessory structure shall be subject to the following requirements and procedures:

1. Accessory apartments not exceeding 1,000 square feet or 35% of the floor area of the principal structure, whichever is less, shall be permitted as a matter of right in the RC, RR, R33, R20 and R13 zoning districts.

2. Notwithstanding the above limitations, and upon authorization by special use permit, the maximum size of an accessory apartment may be increased to 49% of the floor area of the principal structure, but in no case shall it be greater than 1,000 square feet.

3. In no event shall the lot coverage (i.e., footprint) of a detached accessory apartment structure exceed 75% of the lot coverage of the principal structure.

(c) Access to an accessory apartment, whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory structures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.

(d) For the purposes of determining allowable floor area for an accessory apartment, all “habitable space,” as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space which does not meet the “habitable” criteria shall not be counted in floor area calculations for the accessory apartment.

(e) The maximum number of bedrooms in an accessory apartment shall be one (1).

(f) Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.

(g) Approval of accessory apartments shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the total number of bedrooms proposed on the property (principal and accessory).

(h) The accessory apartment shall be occupied only by family members (related by blood, marriage, or adoption) or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single family dwelling. The apartment shall not be offered to the general public for rental or other occupancy arrangements.

(i) All utilities serving the accessory apartment (e.g., electric, water, sewer, gas) shall be registered to the occupant of the principal residence. Registration/billing of utility accounts to different parties (e.g. the occupant of the principal residence and the occupant of the accessory apartment) shall be prohibited, even if separate meters for the principal residence and accessory apartment are used.

(j) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. A copy of any resolution authorizing the accessory apartment shall be attached to the deed restriction as an exhibit. Such restrictions shall not be voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

(Ord. No. 03-8(R), 3/4/03; Ord. No. 06-20(R), 8/15/06; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-24, 12/21/10; Ord. No. 14-12, 6/17/14; Ord. No. 14-14(R), 9/16/14)

Sec. 24.1-408. Standards for group homes and transitional homes.

The following standards shall apply to facilities proposed to house a group of unrelated individuals who do not qualify as a “family” as defined in this chapter:

(a) The maximum number of persons accommodated in any group home or transitional home shall not exceed twelve (12) exclusive of resident staff, provided however, that the board may specify a greater or lesser number in consideration of the density and character of the surrounding area and the characteristics of the site itself.

(b) The external appearance and arrangement of such facility shall be of a form and character which is compatible with the appearance and arrangement of other residential uses in the general area.

(c) All off-street parking and loading in excess of that required of single-family detached dwellings shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by a Transitional Buffer Type 25.

(d) Such facility shall comply at all times with all applicable licensing requirements of the appropriate state regulatory agencies.

(e) Such facility shall be under 24-hour/day care and supervision of a professional staff person (or persons), one or more of whom may also reside in the facility. The required professional qualifications of the supervisory staff shall be submitted for review as part of the zoning authorization process.

(f) The facility may include and offer on-site counseling, education and training services for residents. However, such services may not be offered at the premises to non-residents.

(g) The minimum lot size for such facility shall be based on the number of residents (exclusive of staff) proposed to be housed in the facility, as set forth below:

5 to 8 residents	-	Two (2) times the district minimum
9 to 12 residents	-	Three (3) times the district minimum
12 or more	-	Four (4) times the district minimum

(h) As part of the application for Special Use Permit approval, the applicant shall submit a detailed description of the types of clients proposed to be served by the facility, a statement outlining proposed admission requirements and procedures, a description of the proposed facility staffing, a description of programs and services to be available to the residents of the facility (e.g., counseling, training, transportation, etc.), an identification of the licensing agency(s) for the proposed facility, and a statement from the applicable licensing agency that the proposed facility would be eligible for such a license if use permit authorization is given by the County.

(Ord No. 03-2, 1/21/03; Ord. No. 14-21, 11/18/14)

Sec. 24.1-409. Standards for boarding house, tourist home and bed and breakfast establishments.

(a) When located in single-family residential zoning districts, boarding houses, tourist homes, and bed and breakfast establishments shall have the appearance of a single-family detached residence and normal residential accessory structures.

(b) Other provisions of this chapter notwithstanding, one freestanding, non-illuminated sign, not exceeding four (4) square feet in area, may be permitted to identify such use.

(c) In all residential districts, required off-street parking for the subject use shall be effectively screened by landscaping from view from adjacent residential properties and shall not be located in any required front yard area.

(d) The board shall specify the maximum number of persons who may be accommodated in the proposed use. Such determination shall be based on a consideration of the density and character of the vicinity in which located and of the size and characteristics of the proposed site.

(e) The owner/proprietor of an authorized and operating bed & breakfast (B&B) establishment or tourist home may apply for a supplementary Special Use Permit authorization to host private weddings and receptions for a fee as a business venture. In order to be eligible to apply for such supplementary Special Use Permit, the B&B or tourist home shall have been in continuous operation for at least one (1) year prior to the date of the submission of the application. The following performance standards and conditions shall be observed unless specifically modified or waived by the Board of Supervisors at the time of approval:

(1) Frequency of events: No more than one (1) event per day, or two (2) events in any 7-day period, shall be allowed. A wedding ceremony and its associated reception shall be considered to be a single event.

(2) Maximum number of guests: The maximum number of guests shall be established as a condition of the Special Use Permit approval and shall be based on an assessment of the capacity and suitability of the site in consideration of the size of the property and facilities, the amount of parking available to accommodate guests, the capacity and condition of the highway network providing access to the site, the surrounding land uses and their proximity, and such other considerations as the Board of Supervisors deems to be relevant to prevent adverse effects upon neighboring properties.

(3) Facilities: Any building or temporary tents used to accommodate ceremonies or receptions shall comply with all applicable Building and Fire Code requirements including, but not limited to: access; materials and fire ratings; emergency lighting; exit lights; fire detection and suppression; etc. Any tent(s) shall be positioned on the property in accordance with all applicable setback requirements for principal structures or such greater setbacks as may be established as a condition of the Special Use Permit approval. Tents shall be dismantled within 48 hours of the conclusion of each event, unless the Special Use Permit shall allow a greater time.

(4) Duration of event: Events shall be limited to the time period between 10:00 am and 10:00 pm. Set-up and take-down activities may take place no earlier than 8:00 am and no later than 11:00 pm.

(5) Lighting: Exterior lighting shall be limited to fixtures and illumination intensities that will not produce illumination intensities exceeding 0.1 footcandles at any property line.

(6) Noise: The activities on the subject property shall be conducted in complete accordance with all requirements of the York County Noise Ordinance set forth in Section 16-19 of the York County Code.

(7) Parking: Except as specified below and as documented in the Special Use Permit approval, all parking demand associated with the event shall be accommodated on the site on a suitable all-weather surface. The minimum number of spaces shall be calculated at a ratio of one (1) parking space per every two (2) persons based on the maximum allowable occupancy/attendance limit plus one (1) space for every regular or contract employee associated with the reception facility.

The Special Use Permit may allow:

a. the use of an abutting property owned or controlled by the applicant and from which event attendees can walk without obstruction to reach the reception site. For the purposes of this section, the term abutting shall be construed to include property located on the opposite side of a street right-of-way, provided that event attendees

will be able to cross perpendicularly and safely and will not be required to walk along a road or road shoulder;

b. the use of any available and conveniently located public parking spaces from which attendees can walk safely.

Any parking areas constructed or established specifically for support of the reception use shall be located a minimum of 25 feet from any abutting property not owned by the proprietor, unless with the consent of the owner of the abutting property, and shall be screened from view from those abutting properties and public rights-of-way by evergreen landscaping, unless the abutting property owner consents to waiver of the screening requirement. All applicable stormwater management standards and requirements associated with the installation of the required parking spaces shall be observed.

(8) Fire and Emergency Vehicle Access: Driveway access to the site shall comply with all requirements as to weight capacity, base and surface material, width, configuration and alignment, and vertical and horizontal clearance as set forth in Section 24.1-261. Existing driveways shall be upgraded to meet these standards if they are deficient in any aspect.

(9) Sanitation: Restrooms or toilet facilities shall be provided for event attendees based on the ratios/requirements set forth in the Virginia Uniform Statewide Building Code. Reception venues that would be dependent on the dwelling's on-site septic system will not be approved unless the applicant provides written authorization from the Health Department as to the adequacy of the system. In the event portable restroom or toilet facilities are proposed to be used, all shall be screened from view from adjacent public rights-of-way and abutting properties and all shall be serviced or removed within two working days of the conclusion of the event.

(10) Caterers / Vendors: The proprietor shall ensure that any caterers or other vendors providing services for a reception are properly licensed and permitted, whether such caterer/vendor is hired by the proprietor or by the client contracting for the use of the facility. Likewise, the proprietor shall ensure that all applicable ABC permits have been obtained, either by the client or by the proprietor, and are kept valid.

(Ord. No. 13-12, 7/16/13)

Sec. 24.1-410. Standards for condominiums and condominium conversions.

(a) Notwithstanding the specific minimum lot size and minimum yard requirements specified for a given zoning district, the condominium form of ownership may be permitted under the Condominium Act of Virginia, as set forth in sections 55-79.39 et seq., Code of Virginia, subject to the following provisions:

(1) All applicable minimum lot size, maximum density and minimum yard requirements of the zoning district in which located shall be met by all structures in the condominium development as if lot lines existed.

(2) The location of any community structure, such as a clubhouse or swimming pool, shall be governed by the minimum yard requirements for such structures in the zoning district in which located.

(3) Accessory uses and structures shall be permitted in accordance with the provisions established in article II.

(b) The board may authorize by special use permit proposed condominium conversions which do not conform to the zoning, land use and site plan regulations of the county, provided that the applicant can demonstrate to the reasonable satisfaction of the board that said nonconformities are not likely to be adversely affected by the proposed conversion.

Sec. 24.1-411. Standards for Senior Housing (Housing for Older Persons)

(a) All dwelling units shall be served by public water and public sewer.

(b) The Board of Supervisors shall establish the maximum allowable density for senior housing development projects on a case-by-case basis after consideration of the documentation accompanying the Special Use Permit application, the type of facility and the unit style, the availability of necessary public services and facilities, the compatibility with surrounding land uses (both existing and potential), and such other factors as the Board may deem appropriate. In any event, the maximum allow-

able number of independent living and/or congregate care units in any senior housing development shall not exceed twenty (20) per acre, calculated using net developable acreage as determined in accordance with section 24.1-203. Senior housing developments may include up to five (5) guest suites for use on a temporary basis by families or guests of the permanent residents. Such suites shall not be used for permanent residential occupancy and, as such, will not count toward the maximum allowable density for the development. If fees are charged for use of such suites, all applicable transient occupancy taxes shall be assessed and collected.

(c) The development project shall be designed to promote harmonious relationships with surrounding properties through attention to the type, orientation, spacing and setback of buildings, preservation and maintenance of natural vegetation, location of recreation areas, open spaces, parking areas, grading, landscaping, screening and buffering. Compliance with this requirement shall be demonstrated, documented, and evaluated through the submission of conceptual plans and renderings to accompany the Special Use Permit application.

(d) Senior housing structures shall be designed and arranged as follows:

1. The maximum height of multi-unit structures shall be 45 feet, notwithstanding the height limitations of the district in which located, provided, however, that the Board of Supervisors may establish a lower maximum height based on the character of the surrounding area or on emergency service considerations. The maximum height of individual detached dwelling units shall be thirty-five (35) feet.

2. Congregate Care and Assisted Living facilities shall be accommodated in buildings having enclosed or covered corridors leading to all dwelling units and public/common use spaces.

3. Congregate Care and Assisted Living Facilities shall be accommodated in buildings having access through a main entrance which shall be monitored at all times.

4. The development shall incorporate spaces for recreational, community, and educational activities by and for the benefit of its residents. At a minimum, each senior housing development shall include a common meeting/activity room including a serving kitchen, a lounge/library, and other such spaces as appropriate, for example, areas for exercise, laundry, beauty parlor, and chapel. Such facilities shall be primarily intended for the use and enjoyment of the residents of the development and their guests as opposed to the general public (non-residents). The size of the common meeting/activity room shall be proportionate to the number of units in the facility and the applicant shall include information concerning its adequacy with the Special Use Permit application. In no event shall the size of the meeting/activity room be less than 1,000 square feet.

(e) The development shall be surrounded by a perimeter buffer area of at least fifty feet (50') in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to meet the Type 50 Transitional Buffer standards.

(f) Front, side and rear yards shall be provided around each building in the development in a manner that provides a minimum of twenty-five feet (25') of open landscaped space surrounding each building. Walkways may be located within the 25-foot landscaped area. No two buildings within the project shall be located closer to one another than thirty feet (30').

(g) Exterior landscaped areas shall be provided for both active and passive activities. They should be designed to be suitable for seniors and could include walking trails, victory gardens, gazebos, and benches. A minimum of 200 square feet of common active/passive outdoor recreation area per dwelling unit shall be provided.

(h) Fire hydrants shall be installed within the project at locations such that no building or portion thereof within the development shall be further than six hundred feet (600') from a hydrant. As part of the application for Special Use Permit, the applicant shall submit a detailed description of the proposed features of the project and building design, as well as operational procedures, that will ensure and facilitate the safety of the residents in the event of fire or other emergencies. In the case of senior housing structures not otherwise required to be constructed in accordance with the Institutional classification of the Building Code, the Department of Fire and Life Safety and the Building Official may recommend, and the Board of Supervisors may approve, a use permit condition requiring conformance to one or more aspects of the Institutional classification code pertaining to reduced combustibility of structural components, fire and smoke limiting features, as well as fire detection and suppression systems.

(i) The following design standards shall apply to private streets and circulation drives within the devel-

opment:

1. Pavement shall be designed and constructed in accordance with the Virginia Department of Transportation standards for streets having the same traffic volumes as the proposed private streets and drive.

2. All streets, drives, and parking areas shall be constructed with curb and gutter designed in accordance with Virginia Department of Transportation specifications.

3. Street widths shall be based on the anticipated traffic volumes of the street and shall be determined in accordance with the standards contained in the county subdivision ordinance, unless otherwise approved by the Board.

(j) Stormwater runoff from streets and parking areas within the project shall be conveyed by a storm sewer system which shall consist of curbs and gutters at the edges of pavement, curb drop inlets, and storm sewer piping in accordance with Virginia Department of Transportation and County specifications.

(k) Off street parking shall be provided in accordance with the ratios specified in Section 24.1-608 of this Chapter unless otherwise approved by the Board of Supervisors in conjunction with consideration of the Special Use Permit application based on a site-specific and project-specific analysis provided by the applicant. In the case of a Continuing Care Retirement Community, parking shall be calculated based on the sum of the ratios applicable to the individual components (e.g., independent living units, congregate care units, etc.)

(l) Outdoor lighting shall be provided at appropriate locations in order to illuminate adequately vehicle parking areas and pedestrian and vehicular circulation routes. Such lighting fixtures and illumination levels shall be designed and arranged to be compatible with both natural and architectural characteristics of the development and the surrounding area and shall comply in all respects with the standards set out in Section 24.1-260(f) of this chapter.

(m) Where the project will involve offering board, lodging and nursing services under an agreement for the life of the individual or for more than one year, or where such services are offered in consideration of the payment of an entrance fee, all applicable provisions and requirements of Chapter 49, Continuing Care Provider Registration and Disclosure, of the Code of Virginia (1950) shall be observed.

(n) Applications for Special Permits for senior housing projects shall be accompanied by a community impact statement which shall analyze in specific terms the probable impact of the project on the community over time. The assessment shall include, but not be limited to, reports on population projections, public services and facilities demands and impacts, and environmental, fiscal and economic impacts.

(o) In the case of proposals involving the adaptive re-use of a structure and property formerly used as a hotel or motel, the applicant may propose, and the Board may approve, adjustments in the normally applicable site design requirements such as, but not necessarily limited to, building setbacks, landscape areas, and buffers when such adjustments will allow existing site features and elements to remain and to be incorporated into the new development in an appropriate and acceptable manner, as determined by the Board.

(Ord. No. 03-25, 6/17/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 11-15(R), 11/16/11; Ord. No. 15-16, 12/15/15)

Secs. 24.1-412—24.1-413. Reserved.

DIVISION 2. AGRICULTURE, ANIMAL KEEPING AND RELATED USES (CATEGORY 2)

Sec. 24.1-414. Standards for horsekeeping or other livestock and commercial stables.

(a) The minimum area of any parcel proposed for the keeping of horses or other livestock accessory and incidental to a single-family detached residence, or for a commercial horse stable, shall be two (2) usable acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:

- the area occupied by any residential structures;

- the area of required front or side yards associated with the residence;
- any area with an elevation less than two (2) feet above mean sea level;
- the area encompassed by a 25-foot wide buffer on the landward/upland side of the 2-foot contour;

(b) The maximum number of horses or other livestock permitted as an accessory and incidental use on a residential property shall be one (1) per each usable acre of land as defined in subsection (a) above. In the case of commercial stables, the maximum number of horses permitted shall be two (2) per usable acre of land or such fewer number as the Board of Supervisors may deem appropriate given the characteristics of the subject property and the surrounding area.

(c) Horses or other livestock shall not be stabled, pastured, or otherwise kept within one thousand feet (1,000') of a drinking water reservoir unless it can be proven to the satisfaction of the health department and the zoning administrator that any runoff will be away from the reservoir and that public health will not be negatively impacted. In such cases, a two hundred foot (200') buffer must be maintained. This shall not be interpreted to preclude the riding of horses or establishment of bridle trails closer than the specified distance provided that the health department and owner of the reservoir approve.

The owner shall provide the county with a soil conservation and management plan prepared by a qualified professional which shall include:

(1) a nutrient management plan for the proper storage and application of animal waste;

(2) an erosion control plan to ensure the integrity of the slopes; and

(3) a best management practices program for controlling and treating surface runoff.

In determining consistency with this condition, the zoning administrator may require that the above plans be reviewed and approved by the Virginia Cooperative Extension Service and the U.S. Department of Agriculture - Soil Conservation Service.

(d) The keeping of horses or other livestock as an accessory use on residential property shall be solely for the recreational purposes of the family living on the premises. Boarding of horses or other livestock owned by others is prohibited.

(e) All horses and other livestock shall be kept in pens or other enclosures designed and maintained for secure confinement.

(f) The Board of Supervisors may impose such additional conditions, including special requirements for setbacks of pastures and requirements for drainage control, as deemed necessary to promote the public interest and welfare and ensure that such use will not be detrimental to the character of the neighborhood.

(g) Such uses shall comply in all respects with the standards and requirements established in chapter 4, article II, Livestock, York County Code.

(Ord. No. 11-15(R), 11/16/11; Ord. No. 14-2, 2/4/14; Ord. No. 14-20(R), 10/21/14)

Sec. 24.1-414.1 Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens as an accessory activity on residentially-zoned and occupied property in the R33, R20, R13 and WCI Districts, and as an accessory activity on properties less than two (2) usable acres in area in the RC and RR Districts, shall be permitted in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

(a) Chickens allowed pursuant to this section shall be kept and raised primarily for the benefit and enjoyment of the occupants of the property. However, nothing in this section shall be construed to prohibit the sharing of eggs with friends or neighbors or the sale of eggs, either on or off the premises.

(b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.

(c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.

(d) No roosters shall be allowed.

(e) Pens, coops, or cages shall not be located in any front or side yard area.

(f) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.

(g) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.

(h) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.

(i) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property.

(j) In the case of proposals for accessory backyard chicken-keeping in the RC, RR, R33, R20, R13 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a $15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken-keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

(k) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements.

(Ord. No. 11-15(R), 11/16/11; Ord. No. 14-12, 6/17/14; Ord. No. 14-20(R), 10/21/14)

Sec. 24.1-414.2 Standards for Agriculture Uses Involving Livestock

(a) Notwithstanding the minimum area requirements stated elsewhere in this chapter for any zoning classification, the minimum area of any parcel proposed for an agricultural use, as defined in section 24.1-1-104, shall be two (2) usable acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:

- the area occupied by any residential structure;
- the area of required front or side yards associated with the residence;
- any area with an elevation less than two (2) feet above mean sea level;
- the area encompassed by a 25-foot wide buffer on the landward/upland side of the 2-foot contour;

(b) Any open-air pen, fenced area, or other confinement area for livestock in which the available space is less than 200 square feet per animal shall be located at least 100 feet from the property line of any adjoining parcel on which a residential dwelling unit exists, is under construction, or would be permitted pursuant to its existing zoning classification. In no event shall any pen or confinement area, regardless of its size/area and the number of animals confined, be located less than 25 feet from any perimeter property line. In addition, the following standards shall be observed:

i. Any structure or fenced area used to confine swine shall be located at least five hundred (500) feet from any dwelling not located on the premises and at least 300 feet from any property line.

ii. Any structure or pen used for raising more than 16 chickens shall be located at least 200 feet from any dwelling not located on the premises and at least 100 feet from any property line.

(c) Fencing around livestock pasture areas shall be set back at least 25 feet from any perimeter property line that abuts a parcel less than two (2) acres in area.

(d) All such uses shall comply with all applicable provisions of Chapter 4, Article II. Livestock, and Chapter 23.2, Chesapeake Bay Preservation Areas, of the York County Code.

(e) All such operations shall be conducted in accordance with all existing and applicable best management practices approved by the Virginia Soil and Water Conservation Board with the objective of preventing pollution of, or change in the condition of, the waters of any stream or other water body or which results in drainage or stormwater discharges of a quantity or quality detrimental to adjoining properties.

(f) Notwithstanding the foregoing requirements, horsekeeping accessory to a residential use, commercial stables, and domestic chicken-keeping accessory to a residential use, shall be permitted pursuant to the standards set forth in Section Nos. 24.1-414 and 24.1-414.1 of this chapter.

(Ord. No. 14-20(R), 10/21/14)

Sec. 24.1-414.3 Standards for Commercial Aquaculture and Associated Docking of Workboats and Off-Loading Seafood

When proposed to be established as the principal use of a property in non-commercial zoning districts where commercial aquaculture and the associated docking of workboats and off-loading seafood is permitted pursuant to the listings in Section 24.1-306 – Table of Land Uses, the following standards and requirements shall apply:

(a) Notwithstanding the minimum area requirements stated elsewhere in this chapter for any zoning classification, the minimum area of any parcel proposed to be used for commercial aquaculture shall be two (2) usable acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:

- the area occupied by any residential structure;
- the area of required front or side yards associated with the residence;
- any area with an elevation less than two (2) feet above mean sea level;
- the area encompassed by a 25-foot wide buffer on the landward/upland side of the 2-foot contour;

(b) Any parcel used for this purpose shall have a minimum width of 100 feet at the shoreline, measured between the two points where the side lot lines intersect the mean low water line.

(c) The docking of workboats and loading or off-loading activities associated with an aquaculture operation shall not be permitted within 100 feet of any residential structure located on an abutting property owned or occupied by a person other than the owner of the property on which the aquaculture operation is being conducted. In no event shall any workboat docking or aquaculture activity be conducted within 25 feet of any abutting property. The number of workboats used in the operation and docked at the property's pier shall not exceed the capacity of the pier to accommodate them without need for rafting.

(d) Outdoor storage of goods, equipment, or materials (other than the workboat itself) shall be limited to a total of one thousand (1,000) square feet and shall not be located in any front or side yard, or within twenty-five feet (25 ') of any property line. Any equipment or storage located on the property shall be screened from view from all public streets and adjacent properties by a landscaped buffer area

supplemented, if determined necessary by the zoning administrator, by masonry or wooden fencing material. A 25-foot wide landscaped buffer strip, landscaped in accordance with the Type 25 landscaping requirements set forth in Section 24.1-243 of the Zoning Ordinance shall be provided along any property line that abuts a property on which a residence exists or could be constructed.

(e) Sludge, shells, or any other waste materials generated in the conduct of the aquaculture operation shall not be stored, stockpiled, or permitted to accumulate within twenty-five feet (25') of any property line, within 100 feet of any residential structure located on an adjoining parcel, or, regardless of location, in any manner that is not consistent with best management practices for minimizing odor and the attraction of flies or other pests.

(f) All federal, state and local requirements for docking facilities shall be met and the necessary permits obtained prior to the issuance of a building permit for docks, piers, or boat houses.

(g) No overnight outdoor storage of seafood waste shall be permitted on the property. The term "seafood waste" does not include clean oyster shells.

(h) Any outdoor or security lighting shall be shielded so that glare is not directed onto adjacent property.

(i) The number of workboats docked at the property shall not exceed the capacity of the pier or boat house,

(j) Any demand for parking, including vehicles being loaded or unloaded, generated by the conduct of such use shall be accommodated off the street.

(k) Any storage or utilization of combustible, toxic, or flammable substances shall be in accordance with the National Fire Prevention Code.

(l) All Chesapeake Bay Preservation Area requirements, including specifically the preparation of a water quality impact assessment, shall be followed.

(m) All aquaculture operations shall be conducted in accordance with all existing and applicable best management practices and shall be operated in a manner that prevents pollution of, or change in the condition of, the waters of any stream or other water body or which results in drainage or stormwater discharges of a quantity or quality detrimental to adjoining properties, or in violation of any federal, state or local environmental laws.

(n) Activities and equipment shall be operated in accordance with Best Management Practices so as to minimize noise impacts of trucks, forklifts, or other equipment and prevent it from being audible on adjacent or nearby residential property at levels greater than typical for a residential property.

(Ord. No. 14-20(R), 10/21/14)

Sec. 24.1-415. Standards for plant nurseries, greenhouses, and landscape contracting and storage establishments.

(a) Plant nurseries, greenhouses, and landscape contracting and storage establishments shall be designed and used primarily for the growing of nursery stock for gardens, grounds, and yards and the wholesale or retail sale of such stock; and the off-site installation of such stock. When located in or adjacent to residential areas, such uses shall be designed and operated in a manner which is compatible with the adjacent residential area and may include the sale of ancillary items which are customarily associated with maintaining and preserving the life and health of nursery stock, grounds, gardens and yards.

(b) Off-street parking spaces shall be located at least fifty feet (50') from any residential property line. Such parking areas shall be screened effectively from view from adjacent properties by the use of landscaping supplemented, if necessary, by wooden or masonry fencing.

(c) All loading and storage associated with a landscape contracting business shall be screened effectively from view from adjacent properties by landscaping supplemented by wooden or masonry fencing.

(d) For landscape contracting establishments located in residential zoning districts, no more than five (5) vehicles or pieces of self-propelled equipment (other than automobiles) shall be operated from the site or stored there overnight, unless in a fully enclosed building.

Sec. 24.1-416. Standards for animal hospitals, veterinary clinics, and commer-

cial kennels.

(a) Animal hospitals, veterinary clinics, and commercial kennels located within two hundred feet (200') of a residential property line shall be within a completely enclosed building. Such building shall be adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other properties or uses in the area.

(b) All animals shall be kept in pens or other enclosures designed and maintained for secure confinement.

(c) A waste management plan which ensures sanitary handling of animal wastes and prevents contamination or pollution of adjacent lands or water bodies shall be submitted to and approved by the zoning administrator prior to establishment of such uses.

Sec. 24.1-417. Standards for private kennels.

(a) All animals in private kennels shall be kept in pens or other enclosures designed and maintained for secure confinement.

(b) The minimum setback for runs or pens shall be fifty feet (50') from any residential lot line. In addition, such runs or pens shall be subject to the locational standards for accessory uses as specified in article II-division 7.

(c) All runs and pens shall be screened and buffered to reduce the visual and aural impact on adjacent properties.

Sec. 24.1-418. Standards for commercial orchard or vineyard.

(a) The proposed use shall access a public street which has sufficient capacity to convey the anticipated traffic associated with the proposed use.

(b) An integrated pesticides management plan shall be prepared and submitted with applications for approval.

Sec. 24.1-419. Standards for forestry operations.

(a) A minimum of five (5) acres shall be required for forestry operations.

(b) A forest management plan for all forestry operations shall be submitted to and approved by the Virginia Department of Forestry and the zoning administrator. The zoning administrator shall review the forest management plan for compliance with all applicable requirements of this chapter.

Notwithstanding the provisions of Section 24.1-306, forestry operations which occur to prevent the spread of disease or infestation as certified by the state forester or which occur on land in the County's land use tax program designated for forest use shall be permitted, without issuance of a use permit, upon approval by the zoning administrator of a forest management plan complying with the provisions of this section.

The zoning administrator shall either approve or disapprove the plan no later than ten (10) working days after submittal. In no case shall a forestry operation on land in the County's land use tax program designated for forest use proceed without the approval of the zoning administrator.

(c) All forestry operations shall be in accordance with the approved forest management plan. A forest management plan shall include:

(1) a detailed description of the property to be timbered including its current condition, characteristics of adjacent property, influence on water quality, identification of cultural and historical resources, and the presence of any environmentally sensitive features;

(2) a narrative description of all harvesting procedures, techniques for harvesting in sensitive areas, the location of main haul roads, skid trails, potential log landings and stream or drainage crossings, and timing of harvest;

(3) a reforestation plan, if required; and

(4) a depiction of all required buffer areas.

(d) Where stump removal, grubbing, or other soil disturbing activities are proposed in conjunction with tree harvesting, except those preparations for reforestation that are in accordance with the approved forest management plan, an erosion and sedimentation control plan shall be submitted to and approved by the County prior to commencement of any soil disturbing activity.

(e) All heritage, memorial, and specimen trees shall be protected and preserved during and after tree harvesting.

(f) Fifty-foot (50') buffers within which no timbering shall occur shall be provided along all public roads and twenty-five-foot (25') buffers shall be provided along the side and rear property lines. Fifty percent (50%) of the crown cover within the side and rear yard buffers may be harvested.

(g) Streamside management zones at least fifty feet (50') in width, within which no timbering may occur, shall be preserved on each side of all perennial and intermittent streams. Upon request, the zoning administrator may approve harvesting fifty percent (50%) of the crown cover within the streamside management zone accompanied by a fifty percent (50%) increase of the streamside management zone to one hundred feet (100'). This request must be accompanied by a recommendation of approval from the Virginia Department of Forestry.

(h) All property which is forested or timbered shall be replanted with seedling trees, within one (1) year or the next growing season after the forestry operation is completed, unless the applicant can provide sufficient evidence to the zoning administrator as to why reforestation is not required. This provision shall not apply to property that is converted to a *bona fide* agricultural or improved pasture use as described in subsection B of Title 10.1-1163, Code of Virginia.

(i) If trees are removed from the buffer areas in excess of the provision of (f), the property owner shall be responsible for replanting the number removed with two and one-half inch (2 ½") caliper trees. This provision shall not be deemed to preclude cutting or thinning necessitated by disease or infestation and recommended by the Virginia Department of Forestry.

(Ord. No. O97-18, 6/4/97; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-420. Standards for farmers' markets.

(a) Sales shall be limited to seasonal or perishable produce, including flowers and plants.

(b) A commercial entrance constructed to Virginia Department of Transportation standards shall be available for use by patrons.

(c) No fewer than five (5) off-street parking spaces shall be available for use by patrons. Additional parking spaces may be required by the zoning administrator upon a determination of their need based on the size of the market and site.

(d) No overnight storage of vehicles shall be permitted unless the vehicles are fully screened from view from adjacent properties and rights-of-way.

(e) These standards shall not be interpreted to preclude the operation of farmers' markets on a routine or occasional basis as an accessory use to other commercial establishments or in a manner which shares parking, entrances, and the like with other commercial uses.

Secs. 24.1-421--24.1-422. Reserved.

DIVISION 3. COMMUNITY USES (CATEGORY 4)

Sec. 24.1-423. Standards for all community uses.

(a) Outdoor recreational facilities such as swimming pools and tennis courts shall be not less than fifty feet (50') from any residential property line external to the development served. Such facilities shall be effectively screened from view from properties external to the development served by landscaping or appropriate fencing materials. Ancillary buildings or structures associated with such facilities shall be subject to the setback and yard requirements specified in the district in which located.

(b) Off-street parking areas shall be provided in accordance with all applicable requirements of this chapter.

Such parking areas, as well as circulation drives and paved fire lanes, shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties external to the development served by landscaping supplemented, as necessary, with appropriate masonry or wooden fencing materials. The provisions of this section do not apply to neighborhood or community recreation or assembly facilities which are approved as a part of an overall plan of development for a subdivision or planned development.

(c) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property

(d) Community uses may be established only by organizations, the charter and by-laws of which ensure that the organization shall be a cooperative established by the Virginia Real Estate Cooperative Act (section 55-425 et seq., Code of Virginia) or can achieve bona fide nonprofit status in accordance with the Internal Revenue Service guidelines.

(Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-424. Standards for recreational uses.

(a) Recreational facilities shall be designed in a manner which minimizes their impacts on adjacent properties.

(b) Where recreation areas or facilities are proposed as a part of a residential development where housing units or lots are offered for sale, the areas or facilities shall be completed or substantially completed prior to the issuance of zoning certificates for any adjacent residential units.

(c) Recreational uses and facilities shall be designed in a manner which will promote and protect public safety. This shall include without limitation, effective security and safety lighting along pedestrian and bicycle routes and within parking lots, appropriate clear zones and surface around and beneath play apparatus, provision of emergency telephone capability, and such other similar things as the zoning administrator may deem appropriate or necessary.

(d) Security fencing, where required or desirable, shall be of a type which is compatible with the overall architecture, scale, and character of the recreation facility and the community which it serves.

(e) The zoning administrator may waive the requirement for completion and full plan implementation prior to the issuance of zoning certificates and, further, may waive some or all of the normally applicable surety requirements for recreational facility development which occurs after the community which it serves has been fully developed and where the type and financing of the community organization undertaking the project would so warrant.

Secs. 24.1-425--24.1-426. Reserved.

DIVISION 4. EDUCATION USES (CATEGORY 5)

Sec. 24.1-427. Standards for all education uses.

(a) All off-street parking and loading spaces, circulation drives, and paved fire lanes for education uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.

(b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for educational uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.

(c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.

(d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

(Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-428. Standards for pre-school, day care centers and nursery schools.

(a) Pre-school, day care centers and nursery schools shall be licensed by the Virginia Department of Family Services in accordance with the standards appropriate to the particular facility and intended use.

(b) Outdoor recreation area shall be provided in accordance with the standards established or recommended by the department of family services and the York County division of recreational services. Outdoor recreation space shall only include that area:

(1) Not covered by buildings or required off-street parking;

(2) Outside the limits of required front yards, infiltration yards, and buffer areas; and

(3) Which is suitable for and designed to accommodate active outdoor recreation activities and facilities appropriate to the ages of the children served and for which a license is issued.

(c) All outdoor play areas shall be enclosed by a fence of not less than four feet (4') in height which is constructed of a suitable material as determined by the zoning administrator and which is designed to prevent or reduce noise impacts on adjacent residential property. The zoning administrator may require that views of fencing be partially or wholly obstructed by use of landscaping.

(d) All licenses, permits, and approvals from applicable regulatory agencies shall have been received prior to the use being established.

Secs. 24.1-429--24.1-430. Reserved.

DIVISION 5. INSTITUTIONAL USES (CATEGORY 6)

Sec. 24.1-431. Standards for all institutional uses.

(a) All off-street parking and loading spaces, circulation drives, and paved fire lanes for institutional uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.

(b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for institutional uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.

(c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.

(d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

(Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-432. Standards for Convents/Monasteries

(a) The minimum area of any parcel on which such uses may be proposed shall be four (4) times the minimum lot area for the zoning district in which located or 5 acres, whichever is less.

(b) The maximum number of resident occupants in such facility shall be established by the Board of Supervisors in consideration of the character of the site and the surrounding area, infrastructure and service delivery capacities, compatibility with existing and potential development in the area, and such other factors as the Board may deem appropriate.

(c) The provisions of Article VI – Off-Street Parking and Loading notwithstanding, the minimum required number of parking spaces shall be established by the Board of Supervisors on a case-by-case basis in consideration of the specific characteristics and operational policies of the proposed facility, as documented in writing by the applicant.

(Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-433. Reserved.

DIVISION 6. PUBLIC AND SEMI-PUBLIC USES (CATEGORY 7)

Sec. 24.1-434. Standards for all public and semi-public uses.

(a) All off-street parking and loading spaces, circulation drives, and paved fire lanes for public and semi-public uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.

(b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for public and semi-public uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.

(c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.

(d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

(Ord. No. 11-15(R), 11/16/11)

Sec. 24.1-435. Standards for cemeteries.

(a) No interment shall be made within fifty feet (50') of a property line.

(b) Such uses shall be located so as to provide for safe and convenient access to public highways.

(c) A statement shall be obtained from an engineer, soil scientist, or other qualified professional stating that the ground-water and subsurface drainage will not be detrimentally affected by the proposed cemetery and vice-versa.

(d) Appropriate documents shall be executed to provide for the perpetual and continuous care and operation of the facility. Copies of such documents shall be filed with the zoning administrator and shall be reviewed and approved by the county attorney as being in conformance with the requirements of this subsection.

(e) When located in a residential zoning district, such use shall be designed in such a manner that does it not cause any adverse impact to the residential neighborhood.

(f) No cemetery shall be established on a parcel that is less than two (2) acres in size, however, logical extensions of existing cemeteries shall not be precluded.

(g) These provisions shall not be deemed to preclude the burial of animals or pets by their owners on their property.

(Ord. No. O98-18, 10/7/98)

Sec. 24.1-436. Standards for animal shelters.

(a) All animals in animal shelters shall be kept in pens or other enclosures designed and maintained for secure confinement.

(b) The minimum setback for runs or pens shall be fifty feet (50') from any residential lot line. In addition, such runs or pens shall be subject to the locational standards for accessory uses as specified in article II.

Secs. 24.1-437—24.1-438. Reserved.

DIVISION 7. TEMPORARY USES (CATEGORY 8)

Sec. 24.1-439. Standards for carnival, circus, fair, festival, or similar special event.

Administrative permits may be issued for a temporary carnival, circus, fair, festival, or similar special event in any zoning district subject to the following:

(a) The applicant or property owner shall post a letter of credit, cash, or similar guarantee in the amount of five thousand dollars ($5,000.00) with the zoning administrator to ensure that the grounds are left in a clean and sanitary manner. The zoning enforcement officer shall, within ten (10) days after the closing of such use, make a written report to the zoning administrator on the conditions of the grounds. If the above provisions have not been satisfied, the zoning administrator shall require the forfeiture of said guarantee in an amount sufficient to cover the cost of cleaning the area. The zoning administrator may waive or reduce the guarantee for bona fide non-profit civic groups which are located, organized, meet and operate in York County.

(b) Prior to authorizing the opening of any such use to the public, the zoning administrator shall be satisfied that all enclosures, equipment, and facilities are:

(1) Equipped with safe and adequate plumbing, sanitary facilities and water supply, as required by the plumbing code;

(2) Equipped with safe and adequate electrical wiring, as required by the electrical code;

(3) Equipped with adequate and properly identified exit ways;

(4) Equipped with safe and adequate seating, if required;

(5) Treated so as to be fire resistant; and

(6) In general, a safe place for people to gather.

(c) Adequate provisions shall be made for parking and safe and convenient ingress and egress. A sketch plan for such parking and circulation shall be submitted to the zoning administrator for review and approval. Access to the site shall be via a driveway constructed in accordance with all applicable Virginia Department of Transportation standards for temporary access. Parking of vehicles associated with such use on any street or highway right-of-way shall be cause for revocation of the permit unless such parking arrangements are specifically requested and shown on the sketch plan at time of application and approved as part of the issuance of the permit.

Sec. 24.1-440. Standards for temporary sales of seasonal commodities.

Administrative permits may be issued for the temporary outdoor sale of produce or other seasonal commodities subject to the following provisions:

(a) The maximum term for any administrative permit authorized under this section shall be one (1) one-hundred-twenty-day (120) period during any year.

(b) The applicant for such permit shall provide written evidence to the zoning administrator of the approval of the owner of the property on which such sale is to be conducted.

(c) Prior to the opening of any such use, the director of public safety and the zoning administrator shall verify that all applicable code requirements have been met.

(d) The applicant shall post a surety by cash or certified check in the amount of five hundred dollars ($500.00) to ensure that the site shall be maintained in a clean and sanitary condition at all times and shall be satisfactorily cleaned and restored subsequent to termination of the activity. The zoning enforcement officer shall, within ten (10) days of the closing of such use, report to the zoning administrator concerning the condition of the grounds and any corrective measures deemed necessary. The zoning administrator may waive or reduce the surety for bona fide non-profit civic groups which are located or-

ganized, meet, and operate in York County or when the applicant provides documentation satisfactory to the zoning administrator that the property owner will enforce the property maintenance/clean-up requirement (e.g., as a condition of the applicant's lease).

(e) No such sale, if conducted on the site of an existing development, shall infringe upon any parking spaces required for such development. The zoning administrator shall determine that sufficient and accessible off-street parking spaces are available to serve the patrons of such operation prior to its authorization.

(f) The provisions of this section shall apply to each site operated by a single vendor on a site-by-site basis.
(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-441. Standards for collection receptacles for recyclable materials.

Administrative permits may be issued for collection receptacles for recyclable materials which are available for use by the general public and are used temporarily or on a regularly scheduled occasional basis. The provisions of this section do not apply to individual recycling bins or receptacles used by individual homeowners or businesses.

(a) Such receptacles shall be intended to serve as collection points for recyclable materials such as paper, glass, metal, clothing and similar items.

(b) Such receptacles shall be clearly incidental and subordinate to the principal use of the property on which they are located.

(c) The receptacles shall not infringe on any vehicular or pedestrian access or circulation routes.

(d) The receptacle shall be positioned on the property so that it is readily accessible and so that adequate off-street parking space is available for persons desiring to deposit items in it.

(e) The receptacle, which may be a trailer, shall not be placed on a permanent foundation, nor shall it be connected to any utilities other than electrical service.

(f) A sign, clearly indicating the materials being collected and the recipient or beneficiary of the items or materials collected, shall be painted on or otherwise permanently affixed to the receptacle. Such sign shall not exceed sixteen (16) square feet in area.

(g) The applicant shall furnish written evidence of the approval of the owner of the property on which the receptacle is to be located.

(h) The applicant shall be responsible for the proper maintenance of the receptacle and the timely retrieval of deposited materials. No materials, litter, or debris shall be allowed to accumulate around or overflow from the approved collection receptacle.

(i) All applicable state and local business license regulations shall be complied with.

Sec. 24.1-442. Standards for temporary craft sales or shows.

Temporary administrative permits may be issued for craft sales and shows operated on a temporary basis subject to the following provisions:

(a) The applicant shall provide written evidence to the zoning administrator of the consent of the owner of the property on which such sale is to be conducted.

(b) The dates of the sale or show and hours of operation shall be noted as part of the permit application and approval. Craft shows or sales shall not extend for longer than seven (7) consecutive days.

(c) Goods, materials, or products associated with such uses shall not be stored out of doors on the site when said use is not in operation provided, however, that this restriction shall not apply to overnight storage between consecutive days of operation. For purposes of this section, Saturday and Monday shall be construed as consecutive days if the craft show or sale is not operated on the intervening Sunday.

(d) Access to the site shall be via a driveway constructed in accordance with all applicable Virginia Department of Transportation standards for temporary entrances.

(e) Vendor displays shall be arranged on the site so as to facilitate safe and convenient vehicular and pedestrian circulation.

(f) All parking demand generated by the vendors and patrons of the use must be accommodated by an off-street arrangement. Such off-street parking spaces shall be arranged so as to ensure safe and convenient pedestrian and vehicular circulation. Parking of vehicles associated with such use on any street or highway right-of-way shall be cause for revocation of the permit.

(g) Such use shall be operated in a clean and sanitary manner. All trash and debris shall be appropriately disposed of during and after each day of operation.

(h) The site shall be cleaned and restored subsequent to termination of the activity.

(i) All applicable state and local business license regulations shall be complied with.

(j) No more than one (1) craft show or sale may be operated on a parcel in any sixty (60) day period.

Sec. 24.1-443. Standards for flea markets.

Special use permits may be issued for flea markets operated on a temporary basis subject to the following provisions, the compliance with which shall be indicated on a detailed sketch plan drawn to scale submitted at the time of application.

(a) Outdoor flea markets may be operated only during daylights hours and for a maximum of seven (7) consecutive days.

(b) Goods, materials, or products associated with such uses shall not be stored out of doors on the site when the use is not in operation provided, however, that this restriction shall not apply to overnight storage between consecutive days of operation.

(c) Access to the site shall be via a driveway constructed in accordance with all applicable Virginia Department of Transportation standards for temporary commercial entrances.

(d) Vendor displays shall be arranged on the site so as to facilitate safe and convenient vehicular and pedestrian circulation and their locations shall be included on the sketch plan to permit review and analysis.

(e) All parking demand generated by the vendors and patrons of the use must be accommodated by an off-street arrangement. Such off-street parking spaces shall be arranged so as to ensure safe and convenient pedestrian and vehicular circulation. Parking of vehicles associated with such use on any street or highway right-of-way shall be cause for revocation of the permit.

(f) The applicant shall post a surety by cash, certified check, or letter of credit in the amount of five thousand dollars ($5,000.00) to ensure that the site is maintained in a clean and sanitary condition at all times and is satisfactorily cleaned and restored subsequent to termination of the activity. The zoning enforcement officer shall, within ten (10) days after the closing of the use, make a written report to the zoning administrator on the condition of the grounds. If the site has not been satisfactorily cleaned, the zoning administrator shall require the forfeiture of the performance guarantee. The zoning administrator may waive or reduce the surety for bona fide non-profit civic groups which are located, organized, meet, and operate in the county.

(g) All applicable state and local business license procedures and requirements shall be observed.

(h) No more than one (1) flea market per ninety (90) day period shall be operated on a parcel.
(Ord. No. 01-20(R), 10/16/01)

Sec. 24.1-444. Standards for temporary construction trailers and offices.

Administrative permits may be issued for trailers and industrialized building units used in conjunction with construction or land disturbing projects subject to the following:

(a) Such use shall be in conjunction with a bona fide construction or land disturbing project for which all necessary state and local permits have been obtained.

(b) The use, for office or storage purposes, of an industrialized building unit which meets the definition of "manufactured home," as established in section 24.1-104, may be authorized; however, such unit shall in no instance be utilized for residential purposes.

(c) The installation of construction trailers and offices shall be subject to all applicable permits and inspec-

tions as required by the Virginia Uniform Statewide Building Code.

(d) The location of such units on the site shall be in conformance with all applicable yard requirements of the zoning district in which located.

(e) The applicant shall post a surety by cash, certified check, or letter of credit in the amount of two thousand dollars ($2,000.00) per trailer or building, not to exceed ten thousand dollars ($10,000.00) per construction or land disturbing project, to guarantee the removal of such temporary trailer or building. Alternatively, the applicant may execute an agreement with the Building Official acknowledging that the Certificate of Occupancy for the site will be withheld until the temporary trailer is removed from the site.

(f) The permit shall be issued for a period not to exceed one year; however, such permit may be extended when the zoning administrator finds just cause.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-445. Standards for temporary home while constructing a permanent residence.

Administrative permits may be issued for the use of existing homes or manufactured homes for residential occupancy during construction of a permanent residence, subject to the following:

(a) The existing home or the manufactured home shall be located on the lot upon which the permanent residence is being constructed and its use shall be limited to temporary occupancy by the owner of the lot. A building permit for construction of the permanent residence shall be secured prior to installation of a manufactured home.

(b) The permit shall be valid for a period of one (l) year and may be renewed once by the zoning administrator for an additional one (1) year period, if necessary. Additional extensions shall be authorized only by special use permit issued by the board in accordance with the procedures established in article I.

(c) At, or prior to the expiration of the permit or at the completion of construction, whichever occurs first, the existing dwelling shall be demolished and the debris removed, or the manufactured home shall be removed. No permanent certificate of occupancy shall be issued for the dwelling until the manufactured home has been removed or the existing dwelling demolished and the debris removed.

(d) If a manufactured home is utilized, its installation shall be subject to all inspections and approvals as required by the Virginia Uniform Statewide Building Code. Furthermore, the manufactured home shall be certified as meeting the "Manufactured Home Construction and Safety Standards" promulgated by the U. S. Department of Housing and Urban Development.

(e) The owner of the lot shall post a surety by cash, certified check, or letter of credit in the amount of two thousand five hundred dollars ($2,500.00) or the estimated cost of demolition and debris removal, whichever shall be greater, to ensure compliance with all provisions of this section.

Sec. 24.1-446. Standards for temporary use of trailers for office or business purposes.

Administrative permits may be issued for the temporary use of trailers for office or business purposes subject to the following provisions:

(a) Except as provided herein, the use of trailers for office, or business purposes shall be only on a temporary basis while permanent usable space is under construction.

(b) Issuance of building permits for such permanent construction activity shall be a prerequisite for authorization of a temporary administrative permit for a temporary trailer. Such trailer(s) shall be removed from the site within fourteen (14) days of the lapse of actual and substantial construction activity, expiration of an active building permit for the project, or issuance of the certificate of occupancy, whichever occurs first. Actual and substantial construction activity shall be determined by the zoning administrator, but in no case shall an administrative permit remain valid if there has been a continuous period of lapse in actual and substantial construction activity of ninety (90) days. The maximum term of any permit issued under the terms of this section shall be one hundred eighty (180) days; however, renewals may be authorized by the zoning administrator for good cause shown.

(c) All such trailers to be used for human occupancy shall meet all applicable building and fire code requirements.

(d) The subject trailer shall be located on the site in a position which does not impede construction of the permanent commercial or office space and which does not infringe upon required transitional buffers, setbacks or off-street parking space.

(e) The zoning administrator may, because of the visibility of the site or placement in relations to adjacent roads or properties, require that temporary trailers be landscaped, skirted, or otherwise be wholly or partially screened from view. This may include without limitation a requirement that transitional buffers and landscaped yards which are or would be required for permanent construction be installed either entirely or in part before use of the temporary trailer is permitted.

(f) Compliance with the above specified standards shall be demonstrated through the submission of a sketch plan, including a landscaping plan if deemed necessary by the zoning administrator, which depicts the proposed placement of the trailer and the site improvements. Such plan shall be approved by the zoning administrator prior to placement of the trailer on the site.

(g) Prior to placement of such trailer on the site, the applicant shall post with the zoning administrator a two thousand five hundred dollar ($2,500.00) letter of credit or cash escrow to ensure its removal in accordance with the time limits established herein and shall enter into an agreement, approved as to form and content by the county attorney, to effect the same. Alternatively, the applicant may execute an agreement with the Building Official acknowledging that the Certificate of Occupancy for the site will be withheld until the temporary trailer is removed from the site.

(Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-447. Standards for use of classroom trailers.

(a) The zoning administrator may authorize the use of trailers for temporary classroom purposes on the site of any public or private school.

(b) All such trailers to be used for human occupancy shall meet all applicable building and fire code requirements.

(c) The zoning administrator may, because of the visibility of the site or placement from adjacent roads or properties, require that temporary trailers be landscaped, skirted, or otherwise be wholly or partially screened from view. This may include without limitation a requirement that transitional buffers and landscaped yards which are or would be required for permanent construction be installed either entirely or in part before use of the temporary trailer is permitted.

(d) Compliance with the above specified standards shall be demonstrated through the submission of a sketch plan, including a landscaping plan if deemed necessary by the zoning administrator, which depicts the proposed placement of the trailer and the site improvements. Such plan shall be approved by the zoning administrator prior to placement of the trailer on the site.

Sec. 24.1-448. Standards for temporary use of tents or trailers in conjunction with special events.

Administrative permits may be issued for the temporary use of tents or trailers for office, storage or other purposes in conjunction with temporary special events such as fairs, festivals, sporting events or similar activities subject to the following provisions:

(a) All tents or trailers to be used for human occupancy shall be subject to all applicable building and fire code requirements.

(b) Such use may be authorized for a period coinciding with the event itself and periods not to exceed sixty (60) days prior to and after the event.

Sec. 24.1-449. Standards for temporary use of trailers for "truckload sales."

Administrative permits may be issued for the temporary use of trailers in conjunction with on-premises "truckload" sales events conducted by commercial establishments possessing a valid County business license subject to the following provisions:

(a) Such use may be authorized for a period not to exceed fifteen (15) days per event. No more than four (4) such "truckload" sales events may be conducted on the same premises by a single commercial estab-

lishment during any one calendar year. At least sixty (60) days shall transpire between such consecutive "truckload" sales events.

(b) Such trailer shall be parked on the site at a location where it will not obstruct safe and convenient vehicular and pedestrian circulation.

(c) No signs, pennants, or banners not otherwise authorized under the terms of this chapter may be attached to such trailer.

Sec. 24.1-450. Standards for temporary construction workers' parking areas associated with commercial or industrial construction projects but located in a residential zoning district.

(a) Temporary construction workers' parking areas shall be used solely for the parking of personal vehicles of construction workers engaged in a building project on the site or on an adjacent site.

(b) This provision shall not be interpreted as including a vehicle of any kind designed for or used in conjunction with construction of any kind.

(c) Such parking areas shall be buffered and screened as determined by the zoning administrator to be necessary based on the characteristics of the particular site and surrounding areas and the type of use to be undertaken.

Sec. 24.1-451. Standards for construction lay-down areas.

Administrative permits may be issued for the temporary use of property as a construction lay-down area for the fabrication of materials to facilitate the construction of a structure occurring under the authority of a building permit issued by the county.

(a) The zoning administrator shall require the posting of surety by cash, certified check, letter of credit or other form deemed acceptable in the amount of one thousand dollars ($1,000.00) to ensure that the site is fully cleaned, the debris removed, and the vegetation restored.

(b) The maximum term shall be one (1) year; however, such permit may be renewed and extended by the zoning administrator for good cause shown.

Sec. 24.1-452. Standards for model home display parks.

(a) The minimum area for a Model Home Display Park shall be one (1) acre.

(b) Model homes may be displayed within a model home display park at a maximum density of five (5) model homes per acre. One (1) model home may also serve as an office for the display park. Accessory uses and structures may be permitted in accordance with article II of this chapter.

(c) All structures on-site shall be served by underground utilities and each model home shall be served by a water line and meter and sewer lateral unless specifically exempted by the zoning administrator in consideration of the degree of completion of the particular unit and the type of plumbing fixtures installed.

(d) The site shall be maintained in a clean and sanitary condition at all times.

(e) A site plan prepared in accordance with article V of this chapter must be submitted to and approved by the zoning administrator prior to the commencement of any building activity on the site. Subsequent site modifications involving the replacement of model units on the same general location on the site, as determined by the zoning administrator, may be authorized pursuant to building permit review without need for submission of a new site plan. Proposed modifications involving the placement of additional structures on the site shall require submission and approval of a site plan in accordance with applicable procedures.

(f) The conversion of any or all of the structures contained within a model home display park to a use other than as shown on the approved site plan shall require specific authorization from the zoning administrator.

(g) Upon termination of the model home display park operation the applicant shall, within sixty (60) days,

dismantle and remove the model home displays and return the site to a developable condition, as determined by the zoning administrator. Nothing herein shall be interpreted, however, to prevent the model homes from being converted to a use permitted in the district where located provided that all applicable code and building requirements are satisfied. Prior to issuance of a certificate of occupancy for the model home display park the applicant shall be required to post a surety in an amount and form determined acceptable by the county attorney and zoning administrator, to guarantee compliance with this condition.

Sec. 24.1-453. Mobile Food Vending Vehicles (Food Trucks).

When not in conjunction with a special event (such as a festival, concert, grand-opening, anniversary, or special sales event where food vending is allowed as accessory and incidental to the event) the operation of mobile food vending vehicles (aka – food trucks) on property zoned and developed for commercial or industrial use shall be permitted by administrative permit subject to the following provisions:

(a) The applicant shall provide the following to the zoning administrator:

(1) A copy of a valid York County business license. Such business license shall be posted in the vehicle at all times when in operation in York County.

(2) A copy of a valid health permit from the Virginia Department of Health stating that the mobile food vending operation meets all applicable standards. A valid health permit must be maintained for the duration of the permit.

(b) The administrative permit shall be issued for a period not to exceed one (1) year but may be renewed upon written request by the operator.

(c) In addition to the commercial and industrial districts listed under Section 24.1-306, *Table of land uses*, mobile food vending shall be allowed to operate in the commercial areas of any approved and developed planned development mixed use district (PD-MU).

(d) The following standards and conditions shall apply to all mobile food vending vehicle operations:

(1) The operator must have written documentation of the consent of the owner(s) of the property or properties on which the mobile food vending vehicle will be operated;

(2) Mobile food vending vehicles shall operate only on developed and occupied property and only during the hours when the business/industrial establishment on the premises is open for business;

(3) Unless otherwise approved, mobile food vending vehicles shall be removed from any site when the on-premises establishment closes for the day. Prior to leaving the site, the vehicle operator shall pick up, remove, and dispose of all trash or refuse within at least twenty-five feet (25') of the vehicle that consists of materials originally dispensed from the vehicle, including any packages or containers or parts thereof used with or for dispensing the menu items sold from the vehicle.

(4) One (1) temporary condiment station may be set up next to the vehicle. Such station may be covered by a roll-out cloth awning extending from the vehicle or by a temporary canopy not exceeding 10 feet by 10 feet in dimensions;

(5) The volume of any background music played from the vehicle shall be limited so as not to be plainly audible beyond the property boundaries of the site where the vehicle is located, or at a distance of 100 feet from the vehicle, whichever is less;

(6) Any lighting attached to the exterior of the vehicle or used to illuminate the menu boards or the customer waiting areas adjacent to the vehicle shall be provided with fixtures that do not produce light spill onto adjacent properties or into the night sky;

(7) Receptacles, either those already available on a site or temporary/portable ones provided by the mobile food vehicle operator, shall be positioned conveniently for disposal of all trash, refuse, compost, and garbage generated by the use;

(8) Any greywater, fats, oils, grease, or hazardous liquids generated in the mobile food vending operation shall be contained within the vehicle and transported off the property for proper

disposal;

(9) Mobile food vending vehicles shall be parked at least one hundred (100) feet from any residential dwelling;

(10) Mobile food vending vehicles shall not obstruct pedestrian or bicycle access or passage, impede traffic or parking lot circulation, or create safety or visibility problems for vehicles and pedestrians. Such vehicles may be parked in an existing parking lot provided that any *required* parking spaces are not obstructed and made unavailable;

(11) Mobile food vending vehicles shall not be parked in or operated from a public street right-of-way;

(12) Not more than two (2) A-frame signs may be used to display and advertise menu items and other information associated with the mobile food vending operation. Such signs shall not exceed six (6) square feet in area (e.g., each face of the A-frame) and four (4) feet in height, shall be positioned within thirty (30) feet of the vehicle, and shall not be placed within a public road right-of-way. Signage that is permanently affixed to the vehicle shall be permitted; however, flags, banners, or other decorative appurtenances, whether attached or detached, shall not be allowed.

(e) The zoning administrator may revoke the permit at any time for failure of the permit holder to comply with any requirement of this chapter and to correct such noncompliance within the timeframe specified in a notice of violation. Notice of revocation shall be made in writing to the permit holder. Any person aggrieved by such notice may appeal the revocation to the board of zoning appeals.

(Ord. No. 15-15(R), 1/19/16)

DIVISION 8. RECREATION AND AMUSEMENT USES (CATEGORY 9)

Sec. 24.1-454. Standards for all recreation and amusement uses.

(a) When recreation and amusement uses are to be located in or adjoining a residential district, all off-street parking and loading spaces shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by both landscaping and appropriate fencing materials.

(b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for recreation and amusement use. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.

(c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.

(d) Outdoor components of such uses, where located adjacent to residentially classified property, shall not be operated after 11:00 p.m. nor before 6:00 a.m.

(e) Provisions shall be made to adequately accommodate bicycle parking unless the zoning administrator determines such provision is unnecessary by reason of the location, hours of operation, or market orientation.

(f) Outdoor speaker or paging systems shall not be directed toward property lines and shall not be audible from adjacent residential properties.

Sec. 24.1-455. Standards for health, exercise and fitness centers.

(a) Outdoor recreation facilities associated with health, exercise and fitness centers shall be located not less than twenty-five feet (25') from any residential property line.

(b) Activities within health, exercise and fitness centers shall be screened from view from parking lots,

driveways, public and private streets, and other vehicular or pedestrian circulation routes.

Sec. 24.1-456. Standards for amusement arcades, pool and billiard halls.

(a) Amusement arcades and pool and billiard halls shall not be located closer than one thousand feet (1,000') to any school nor within one hundred feet (100') of any residential lot line.

(b) Applications for such uses shall include proposed rules of operation which address:

(1) procedures to preclude gambling and loitering;

(2) regulations regarding the use of the establishment by school age children; and

(3) procedures for enforcement of rules.

(c) Such other conditions may be imposed as may be deemed necessary to assure that the use will be compatible with, and will not adversely impact, the adjacent area. Such conditions and restrictions may include, but need not be limited to, the following:

(1) hours of operation;

(2) size of the establishment and number of amusement machines;

(3) number of adult attendants required to be on the premises at all times; and

(4) ability of law enforcement officers to view interior activities from the parking lot.

Sec. 24.1-457. Standards for firing ranges.

(a) With the exception of paintball ranges, only completely enclosed indoor firing ranges are permitted. Outdoor paintball ranges may be permitted.

(b) No structure except screening fences and identification signs used for firing ranges shall be located closer than one hundred feet (100') to any residential lot line.

(c) The protection of adjacent properties shall be assured by proper design, location, and orientation of structures, backstops, and firing lines. Outdoor paintball ranges shall be enclosed by security fencing or other means adequate to delineate the boundaries of the range. No part of an outdoor paintball range may be located within 300 feet of an occupied residentially zoned property, or such greater distance as may be required as a condition of a special use permit.

(d) The range shall be designed so that no range noise is audible at the property line. Documentation certified by an architect and professional engineer to this effect shall be submitted with site and building plans.

(Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-458. Standards for miniature golf, waterslide, skateboard rink, baseball hitting range, golf driving range, and other outdoor commercial amusements.

(a) No structure except privacy or containment fences or sound baffles used as a part of miniature golf, waterslide, skateboard rink, baseball hitting range, golf driving range, or other outdoor commercial amusements shall be located closer than five hundred feet (500') to a residential property line or closer than one hundred feet (100') to any other property line except where a lesser dimension is approved by the Board of Supervisors in conjunction with the consideration of a special use permit application.

(b) Noise shall be contained on the site through the use of architectural and landscape means.

(Ord. No. O98-18, 10/7/98)

Sec. 24.1-459. Standards for country clubs and golf courses.

(a) Rain shelters and comfort stations shall observe a twenty-five foot (25') setback from residential property lines. No other structure used for or in conjunction with country clubs and golf courses except for privacy or containment fences shall be located within fifty feet (50') of any adjoining property which is in a residential district.

(b) Practice ranges, if lighted, shall have such lighting oriented so as to prevent objectionable glare and disturbances to adjacent residential areas and public rights-of-way.

Sec. 24.1-460. Standards for campgrounds.

(a) The minimum site area for campgrounds shall be ten (10) acres.

(b) Campgrounds shall have direct access to a public road which is adequately sized and surfaced to accommodate the traffic generated by the campground.

(c) Accessory commercial uses, exclusively for the use of patrons of the campground, may be approved. Such uses may include: coin operated laundry, convenience store, entertainment center or restaurant and snack bar.

(d) No structure except screening fences or identification signs or athletic facility shall be closer than fifty feet (50') to any residential lot line.

(e) The campground shall meet all applicable health department requirements and evidence to this effect must be submitted at the time of application.

(f) The only permanent residential occupancy permitted shall be for the resident owner or manager or security officer and their immediate family members.

Sec. 24.1-461. Standards for theme park, amphitheater, or stadium.

(a) Theme parks, amphitheaters and stadiums shall be surrounded by a Type 50 transitional buffer. In consideration of the particular character of such a proposed facility and its surroundings, the board may require a perimeter buffer area of greater depth or more intense landscaping.

(b) A parking study shall be performed by a professional qualified to do such studies in order to determine the parking needs of the use. In addition, a grassed area shall be reserved on the site to provide overflow parking capacity equal to not less than ten percent (10%) of the total parking spaces required by the study.

(c) A traffic study shall be prepared in accordance with the provisions of article II, division 5 of this chapter. The resulting access management plan and design shall ensure one clear lane for emergency access is maintained at all times for emergency personnel and equipment. Access roads and pedestrian walkways for the facility shall be designed for peak hour usage. Access drives to the facility shall be designed and sized, based on the traffic impact analysis, to accommodate the park volumes of vehicular traffic associated with arrivals and departures from the facility without unduly interrupting traffic flow on adjacent public rights-of-way.

(d) The facility shall be served by an appropriate communication system, including both signage and public address system, to ensure efficient operations, vehicular and pedestrian traffic circulation, crowd management and emergency notification capabilities.

(e) A noise analysis shall be prepared describing the projected sound transmission levels and frequencies, including those used in any radio broadcasting to on- or off-site receivers, or anticipated to be generated by the facilities or the events operated or conducted on the site. Such analysis shall include a discussion of both ambient and directional sound levels and frequency, and any proposed sound attenuation measures.

(f) A report shall be submitted describing the proposed methods of crowd control and management, including security, vehicular and pedestrian traffic, first aid, emergency access, emergency communications and staffing levels and training. Proposed hours of operation shall also be described in the report.

Sec. 24.1-462. Standards for marina, dock or boating facility (commercial).

(a) Commercial marinas, docks and boating facilities shall be designed in accordance with the "Criteria for the Siting of Marinas or Community Facilities for Boat Mooring" as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.

(b) All federal, state and local requirements for marina facilities shall be met and the necessary permits obtained prior to issuance of the zoning certificate for docks, piers or boat houses.

(c) All requirements of chapter 23.2, Chesapeake Bay Preservation Areas, shall be addressed as part of any plan approval.

(d) Restaurant facilities associated with commercial marinas shall be subject to the following requirements:

(1) The restaurant shall be designed and operated as an accessory component of the marina. Restaurants shall not be permitted in conjunction with any marina having less than twenty (20) in-water berths/slips capable of accommodating a boat of at least sixteen (16) feet in length. Unless a greater size is authorized by a Special Use Permit, the maximum capacity (both indoor and outdoor dining space) of any restaurant established pursuant to these provisions shall be four (4) seats for every one (1) in-water berth/slip, but in no case greater than a 150-seat capacity. The maximum floor area of the dining area (both indoor and outdoor seating areas) and shall not exceed 25 square feet for each allowable seat.

(2) The restaurant shall be located on the marina site and designed so as to be compatible in form, character, appearance and arrangement with adjacent properties. In order to prevent or minimize potential adverse impacts on such properties, including but not limited to noise, light and odor, the following site and building design standards shall be observed. For the purposes of the following performance standards, the term "adjacent" shall be deemed to include properties located across a body of water:

a) Every reasonable effort shall be made to orient the principal and service entrances to the restaurant away from adjacent residentially-zoned property. The minimum unobstructed distance (measured on a line-of-sight) between the principal and service entrances to the restaurant and any adjacent existing residential structure on residentially zoned property shall be 200 feet. However, if no other reasonable alternative exists, the principal and service entrances may be as close as 100 feet (measured on a line-of-sight) to such existing residential structure(s) on adjacent residentially-zoned property if buffered by appropriate landscaping and fencing. Appropriate landscaping shall consist of a row of leyland cypress spaced at 10 feet on centers, or an equivalent evergreen substitute as approved by the Zoning Administrator, and extending a sufficient linear distance to provide an effective screen between the two uses, and appropriate fencing shall be of a wooden board-on-board type extending the same distance as the landscaping and complying with the height limitations set out in this chapter. Buildings on the restaurant (marina) property may be credited as obstructing the line-of-sight as long as they remain in place. In the event an existing building is determined to provide the line-of-sight obstruction, the above-noted separation distances shall not apply. Should such buildings be removed in the future, the marina operator shall be responsible for establishing a substitute buffer approved by the Zoning Administrator.

b) Entrance and exit doors shall be kept closed at all times of operation to avoid noise impacts. The loading or unloading of any delivery truck associated with the restaurant operation shall not be permitted between the hours of 6:00 p.m. and 7:00 a.m.

c) Parking spaces likely to be used by restaurant patrons and employees shall be located so as to minimize impacts on adjacent residentially zoned property. Any such parking area located within 300 feet of a residential structure shall be screened from view by buildings, fencing, landscaping, or combinations thereof. The operator of the establishment shall be responsible to the greatest extent practicable for minimizing and eliminating loitering or congregations of individuals in the parking lot associated with the restaurant.

d) Every reasonable effort shall be made to orient mechanical equipment such as refrigeration units, HVAC systems, venting systems, or other systems or components that might cause offensive or objectionable noise or odor so that they face away from adjacent residentially zoned property. All mechanical equipment, regardless of its location, shall be concealed from view from adjacent residentially-zoned properties by appropriate landscaping or architectural treatments and shielded to deflect noise and odor away from such properties.

e) Garbage, refuse and recycling containers shall be screened from view by a fence, wall or landscaping. Enclosures for such containers shall be located as far away as practicable from any adjacent residential structure and the restaurant operator shall be responsible for controlling odors through scheduling of collection, deodorizers or other means, so as not to be offensive to adjacent residential property owners. Refuse trucks shall not be permitted to service the dumpsters between the hours of 6:00 p.m. and 7:00 a.m.

(3) Any proposed outdoor dining areas shall be clearly depicted on the plans submitted with the application to establish the restaurant. Outdoor dining areas shall be located and designed so as to ensure the greatest degree of compatibility with adjacent residentially zoned properties and shall be buffered from potential sound emissions to such residential properties by buildings, architectural treatments, landscaping, or combinations thereof. Such buffering and other treatments shall be designed to ensure that sounds (conversations, music) emanating from the outdoor dining area do not exceed the limits prescribed by Section 16-19 of the York County Code.

(4) Patrons of the restaurant may be admitted only between the hours of 6:00 a.m. and 10:00 p.m. and serving of food and beverages shall cease, and the restaurant shall close, no later than 11:00 p.m.

(5) The restaurant shall not include a specially-designed and dedicated dance floor nor shall live or recorded music be played (either indoors or outdoors) so as to exceed the limits prescribed by Section 16-19 of the York County Code.

(6) No outdoor paging or public address systems shall be permitted in conjunction with the restaurant.

(7) All outdoor lighting associated with the restaurant and including but not limited to, its appurtenant parking lots, walkways, and service areas shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent properties, rights-of-way, and waterways. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixtures and luminaries for such uses.

(8) The marina operator shall be responsible for ensuring that parking occurs only in designated off-street parking spaces and shall not allow marina/restaurant patrons to park in access drives, service drives, fire lanes or landscaped areas. The marina operator shall be responsible for installing / erecting appropriate curbing, bollards, fencing or similar measures needed to limit parking to the approved parking spaces on the site.

(9) The application for approval of a new marina with a restaurant, or for the addition or expansion of a restaurant at an existing marina, shall be accompanied by a traffic impact study prepared in accordance with the standards established in article II, division 5, of this chapter. Such study shall be required for all restaurant proposals, regardless of their size. Such study shall be based on the traffic generation figures associated with the marina, using the current ITE trip generation figures, and also including the restaurant as an additive traffic generator but at a factor of 25% of the volumes that would be expected if the restaurant were a stand-alone facility. Approval of the restaurant at the size proposed shall be contingent on demonstration through the traffic analysis that the capacity of the road system serving the marina can accommodate the projected traffic and that there will be no excessive or adverse impact on residential streets nor a demonstrable safety hazard to vehicular or pedestrian traffic along the access routes. The findings and conclusions of the traffic analysis shall be subject to approval by the Virginia Department of Transportation.

(10) The owner of any property desiring to establish a restaurant in conjunction with a marina but which does not propose compliance with the above-stated standards may request consideration of such alternate proposal by submitting an application for approval of a Special Use Permit. In reviewing such a request, the Board of Supervisors may modify and supplement the above-stated standards in such manner as it deems appropriate to the specific property and proposal.

(Ord. No. 01-10(R-1), 6/19/01; Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-463. Standards for marina, dock or boating facility (private or club).

(a) Use of private marinas, docks, or boating facilities shall be limited to a specific membership and shall not be intended for the general public or commercial purposes.

(b) Private marinas, docks and boating facilities shall be designed in accordance with the "Criteria for the Siting of Marinas or Community Facilities for Boat Mooring" as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.

(c) All federal, state and local requirements for marina facilities shall be met and the necessary permits obtained prior to the issuance of a zoning certificate for docks, piers or boat houses.

(d) All requirements of chapter 23.2, Chesapeake Bay Preservation Areas, shall be addressed as part of any plan approval.

(e) Restaurant facilities associated with private or club marinas shall be subject to the requirements set forth in Section 24.1-462 for commercial marina facilities.

(Ord. No. 01-10(R-1), 6/19/01; Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-464--24.1-465. Reserved.

DIVISION 9. COMMERCIAL AND RETAIL USES (CATEGORY 10)

Sec. 24.1-466. Standards for all commercial and retail uses.

(a) All off-street parking and loading space for all commercial and retail uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, with appropriate fencing materials. This setback/screening requirement shall also apply to all circulation drives and stacking spaces.

(b) When located in or adjacent to a residential area, the external appearance and arrangement of such facility shall be of a form, character, appearance and arrangement fully compatible with the residential area.

(c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets. All site lighting fixtures shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded and/or recessed luminaries with horizontal-mount flat lenses.

(d) Outdoor speaker or paging systems shall be directed away from property lines and shall not be audible on adjacent properties or rights-of-way.

(e) Appropriate and adequate facilities for accommodating bicycle parking and other alternative transportation modes shall be provided which are safe, secure, and convenient.

(f) The minimum setback for structures such as fuel dispensing pumps, pump islands, canopies, customer service kiosks, and similar uses shall be forty feet (40') unless the district in which the use is located allows a lesser setback for the principal structure.

(g) Any fuel dispensing or car wash activities conducted as accessory uses in conjunction with a commercial or retail operation shall be subject to the performance standards set forth in sections 24.1-475, 477, and 478 of this chapter.

(h) For retail uses otherwise permitted as a matter of right under the provisions of Section 24.1-306, a special use permit shall be required for any proposed development having 80,000 or more square feet of gross floor area. Any redevelopment involving an addition, expansion, renovation, enlargement, or other modification of an existing development that would increase the gross floor area to 80,000 or more square feet shall be subject to the standards and procedures applicable to amendment of special use permits set forth in Section 24.1-115(d) of this chapter.

(Ord. No. 00-15, 8/15/00; Ord. No. 04-2(R), 3/2/04)

Sec. 24.1-467. Standards for convenience stores.

(a) Convenience stores may have access only to streets classified as major collectors or a higher order.

(b) A traffic impact analysis must be performed in accordance with the requirements of article II, division 5. The recommended improvements must be fully implemented provided, however, that the zoning administrator shall require such additional improvements or traffic restrictions as may be necessary to ensure traffic safety and preserve roadway capacity.

(c) Deliveries to such uses located adjacent to residential areas shall not occur after 11:00 p.m. or before 6:00 a.m.

(d) Site lighting shall be provided by fixtures which are compatible in style and illumination levels with the architecture of the principal building on the site and are not greater than twenty-five feet (25') in height.

(e) Any fuel dispensing or car wash activities conducted as accessory uses in conjunction with a convenience store operation shall be subject to the performance standards set forth in sections 24.1-475, 477, and 478 of this chapter.

(Ord. No. 04-2(R), 3/2/04)

Sec. 24.1-468. Standards for lumberyards and building materials establishments.

(a) Outdoor storage yards or areas for lumber or building materials and delivery vehicles shall be designed and located so as to minimize visual impacts on adjacent properties and public rights-of-way. Landscaping supplemented by fencing shall be utilized so as to enclose and screen such storage yards in a manner which disrupts direct views of the storage yard from adjacent rights-of-way and properties. The location of such outdoor storage areas shall be consistent with all applicable standards of the district in which located.

(b) Such uses shall be designed to minimize the noise impact of trucks, forklifts, and other heavy equipment on adjacent properties and to prevent such noise from being audible on adjacent or nearby residential properties at any greater level than typical for residential areas.

Sec. 24.1-469. Reserved.

DIVISION 10. BUSINESS AND PROFESSIONAL SERVICE USES (CATEGORY 11)

Sec. 24.1-470. Standards for all business and professional service uses.

(a) All off-street parking and loading space for business and professional services shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials. The setback/screening requirement shall also apply to all circulation drives serving the business/professional service.

(b) When located in or adjacent to a residential area, the external appearance and arrangement of such facility shall be of a form, character, appearance and arrangement fully compatible with the residential area.

(c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.

(d) Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.

(e) Appropriate and adequate facilities for accommodating bicycle parking and other alternative transportation modes shall be provided which are safe, secure, and convenient.

(Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-470.1 Standards for tattoo parlors, pawn shops, and payday loan establishments

(a) Tattoo parlors, pawn shops or payday loan establishments shall not be located on property that is within ½ mile (2,640 feet) of property occupied by: a place of worship; a public, parochial or private

school (K thru 12); a public library; or, a public park or athletic field or facility.

(b) No tattoo parlor shall be located such that its principal façade or any wall or freestanding signage associated with the establishment is visible from any Primary System road in the County.

(Ord. No. 06-21, 9/19/06)

Sec. 24.1-471. Standards for professional offices in multi-family residential districts.

(a) Professional offices in multi-family residential districts shall be limited to offices, studios, or occupational rooms for professional persons such as, but not necessarily limited to, physicians, duly licensed practitioners of behavioral sciences, attorneys, professional engineers, planners, surveyors, architects, accountants, real estate appraisers or brokers, or insurance agents.

(b) Such office facilities shall have direct access to an existing or planned street classified as a collector or higher order street. No access to residential access streets shall be permitted.

(c) The external appearance and arrangement of such facility shall be of a form and character which is compatible with the appearance, arrangement, and character of the residential area in which located.

Sec. 24.1-472. Standards for timeshare resorts (interval ownership).

(a) Timeshare resorts shall be comprised of two or more residential units for which the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule on a periodically recurring basis.

(b) Permanent year-round residential occupancy of any units by any individual or family other than that of a resident manager or caretaker and family thereof shall not be permitted.

(c) All agreements and restrictions pertaining to ownership and maintenance of common areas on the site shall comply fully with section 55-360 et seq., Code of Virginia, the Virginia Real Estate Time-Share Act. Certification by the developer's legal counsel that the referenced standards have been met shall be submitted with development plans.

(d) For any timeshare section of a resort composed entirely of individual detached units, duplexes, or a combination thereof, the following site design standards shall apply, in addition to the standards set out elsewhere in this chapter:

(1) The minimum distance between any two residential buildings within the timeshare resort shall be fifteen feet (15'), provided, however, that the fire chief shall approve the fire protection measures for any development where principal buildings are separated by less than twenty feet (20'). Up to ten percent (10%) of the total approved timeshare units may have a minimum building separation below fifteen feet (15'), and governed by the building code, upon a finding by the zoning administrator that the reduction is necessary due to specific site constraints and limitations including, but not limited to, steep slopes, wetlands and the preservation of mature trees. In such instances, no more than two (2) adjacent buildings may receive the reductions and such buildings must be offset with no adjacent parallel exterior walls. All fire protection measures and final building locations shall be approved by the fire chief.

(2) Private internal streets within the development that provide direct access to individual units shall have a minimum pavement width of twenty feet (20'). Where such streets are located between opposing parking bays with a ninety degree (90°) angle of parking, the parking spaces within such bays shall have a minimum length of twenty feet (20').

(3) A cul-de-sac or other appropriate turnaround, such as but not limited to those depicted in Figure VIII-1 in Appendix A, shall be provided at the end of all private streets, provided, however, that any alternative turnaround designs are deemed acceptable by the fire chief and the zoning administrator. To ensure emergency vehicle access throughout the development, dead end streets may be connected to each other with all-weather access trails utilizing grass paving systems capable of supporting emergency vehicles. All such access trails shall be maintained by the timeshare resort in a continually passable condition and shall be subject to approval by the fire chief and the zoning administrator.

(4) In lieu of the provisions of section 24.1-244(b)(2), parking lots shall be set apart from land-

scaped areas by a permanent curb or wheel stop or other device, such as shrubs, decorative fencing or bollards, providing an adequate physical barrier, in the opinion of the zoning administrator, between parking spaces and landscaped yards.

(5) Notwithstanding the provisions of section 24.1-244(b), a landscaped open space strip a minimum of five feet (5') in width shall be provided between off-street parking and any timeshare building on the site. This provision shall not apply to clubhouses, community recreation facilities, and areas where parking spaces are grouped in bays of five (5) or more.

(6) Tandem or stacked parking may be utilized for up to ten percent (10%) of the required off-street parking upon a finding by the zoning administrator that such design is necessary due to specific site constraints and limitations including, but not limited to, steep slopes, wetlands and the preservation of mature trees. Each space shall be minimum dimensions of nine feet by thirty-eight feet (9' x 38').

(Ord. No. O98-21(R), 12/16/98)

Sec. 24.1-473. Standards for drive-in, fast food and carry-out delivery restaurants.

(a) Drive-In, fast food, and carry-out delivery restaurants may have access only to streets classified as major collector or a higher order.

(b) A traffic impact analysis must be performed in accordance with the requirements of article II, division 5. The recommended improvements must be fully implemented provided, however, that the zoning administrator shall require such additional improvements or traffic restrictions as may be necessary to ensure traffic safety and preserve roadway capacity.

(c) Deliveries to such uses located adjacent to residential areas shall not occur after 11:00 p.m. or before 6:00 a.m.

(d) Site lighting shall be provided by fixtures which are compatible in style and illumination levels with the architecture of the principal building on the site and are not greater than twenty-five feet (25') in height.

Sec. 24.1-474. Standards for commercial reception hall or conference center.

(a) The reception hall/conference center shall be located on the site and designed so as to be compatible in form, character, appearance and arrangement with adjacent properties. In order to prevent or minimize potential adverse impacts on such properties, including but not limited to noise, light and odor, the following site and building design standards shall be observed. For the purposes of the following performance standards, the term “adjacent” shall be deemed to include properties located across a body of water:

1. Every reasonable effort shall be made to orient the principal and service entrances to the facility away from adjacent residentially-zoned property. The minimum unobstructed distance (measured on a line-of-sight) between the principal and service entrances to the facility and any adjacent existing residential structure on residentially zoned property shall be 200 feet. However, if no other reasonable alternative exists, the principal and service entrances may be as close as 100 feet (measured on a line-of-sight) to such existing residential structure(s) on adjacent residentially-zoned property if buffered by appropriate landscaping and fencing. Appropriate landscaping shall consist of a row of leyland cypress spaced at 10 feet on centers, or an equivalent evergreen substitute as approved by the Zoning Administrator, and extending a sufficient linear distance to provide an effective screen between the two uses, and appropriate fencing shall be of a wooden board-on-board type extending the same distance as the landscaping and complying with the height limitations set out in this chapter. Buildings on the reception hall/conference center site may be credited as obstructing the line-of-sight as long as they remain in place. In the event an existing building is determined to provide the line-of-sight obstruction, the above-noted separation distances shall not apply. Should such buildings be removed in the future, reception hall/convention center operator shall be responsible for establishing a substitute buffer approved by the Zoning Administrator.

2. Entrance and exit doors shall be kept closed at all times of operation to avoid noise impacts. The loading or unloading of any delivery truck associated with the facility operation shall not be permitted between the hours of 6:00 p.m. and 7:00 a.m.

3. Parking spaces likely to be used by facility patrons and employees shall be located so as to minimize impacts on adjacent residentially zoned property. Any such parking area located within 300 feet of a residential structure shall be screened from view by buildings, fencing, landscaping, or combinations thereof. The operator of the establishment shall be responsible to the greatest extent practicable for minimizing and eliminating loitering or congregations of individuals in the parking lot associated with the facility.

4. Every reasonable effort shall be made to orient mechanical equipment such as refrigeration units, HVAC systems, venting systems, or other systems or components that might cause offensive or objectionable noise or odor so that they face away from adjacent residentially zoned property. All mechanical equipment, regardless of its location, shall be concealed from view from adjacent residentially-zoned properties by appropriate landscaping or architectural treatments and shielded to deflect noise and odor away from such properties.

5. Garbage, refuse and recycling containers shall be screened from view by a fence, wall or landscaping. Enclosures for such containers shall be located as far away as practicable from any adjacent residential structure and the facility operator shall be responsible for controlling odors through scheduling of collection, deodorizers or other means, so as not to be offensive to adjacent residential property owners. Refuse trucks shall not be permitted to service the dumpsters between the hours of 6:00 p.m. and 7:00 a.m.

6. Any proposed outdoor reception or dining areas shall be clearly depicted on the plans submitted with the application to establish the facility. Outdoor reception/dining areas shall be located and designed so as to ensure the greatest degree of compatibility with adjacent residentially zoned properties and shall be buffered from potential sound emissions to such residential properties by buildings, architectural treatments, landscaping, or combinations thereof. Such buffering and other treatments shall be designed to ensure that sounds (conversations, music) emanating from the outdoor dining area do not exceed the limits prescribed by Section 16-19 of the York County Code.

(b) Patrons of the facility may be admitted only between the hours of 6:00 a.m. and 10:00 p.m. and serving of food and beverages shall cease, and the facility shall close, no later than 11:00 p.m., unless the Board of Supervisors authorizes a later closing time in conjunction with the use permit approval.

(c) No outdoor paging or public address systems shall be permitted in conjunction with the restaurant. The playing of live or recorded music, whether indoors or outdoors, shall comply in all respects with the terms of Section 16-19 of the York County Code.

(d) All outdoor lighting associated with the facility and including but not limited to, its appurtenant parking lots, walkways, and service areas shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent properties, rights-of-way, and waterways. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixtures and luminaries for such uses.

(e) The facility operator shall be responsible for ensuring that parking occurs only in designated off-street parking spaces and shall not allow facility patrons to park in access drives, service drives, fire lanes or landscaped areas. The facility operator shall be responsible for installing/erecting appropriate curbing, bollards, fencing or similar measures needed to limit parking to the approved parking spaces on the site. Off-street parking shall be provided in accordance with the ratios specified in article 6 of this chapter, provided however, that all indoor and outdoor spaces that will be used/available at the same time for events shall be included in the floor area calculations used as the basis for parking demand.

(f) The application for approval of such a facility shall be accompanied by a traffic impact study prepared in accordance with the standards established in article II, division 5, of this chapter. Such study shall be required for all reception hall/conference center proposals in the WC/I district, regardless of their size. Approval of the reception hall/convention center facility at the size proposed shall be contingent on demonstration through the traffic analysis that the capacity of the road system serving the facility can accommodate the projected traffic and that there will be no excessive or adverse impact on residential streets nor a demonstrable safety hazard to vehicular or pedestrian traffic along the access routes. The findings and conclusions of the traffic analysis shall be subject to approval by the Virginia Department of Transportation.

(Ord. No. 05-34(R), 12/20/05)

DIVISION 11. MOTOR VEHICLE AND TRANSPORTATION RELATED USES (CATEGORY 12)

Sec. 24.1-475. Standards for all motor vehicle and transportation related uses.

(a) All off-street parking and loading space for motor vehicle and transportation related uses shall be located not less than thirty-five feet (35') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemental, as necessary, with appropriate fencing materials. This setback/screening requirement shall also apply to all circulation drives and stacking spaces.

(b) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets. All site lighting fixtures shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded and/or recessed luminaries with horizontal-mount flat lenses.

(c) Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets. The playing of music on any outdoor speaker systems at a volume that can be heard at the property line shall be prohibited.

(d) The minimum setback for structures such as fuel dispensing pumps, pump islands, canopies, customer service kiosks, and similar uses shall be forty feet (40') unless the district in which located allows a lesser setback for the principal structure. All lighting mounted on or under canopies shall be full-cutoff or recessed fixtures. No signage shall be attached to the canopy.

(e) Garage bay doors and semi-enclosed vehicles bays shall be screened from direct view from public streets by a combination of landscaping and earthforms. Any berms used shall comply with the requirements for providing sight triangles contained in section 24.1-242(c).

(f) Landscape plans for motor vehicle and transportation related uses shall be prepared and certified by a Virginia certified landscape architect.

(g) A hazardous materials management and stormwater runoff control plan detailing the methods to be employed to ensure that no hazardous or petroleum-based products are permitted to infiltrate into groundwater or surface water resources shall be prepared, submitted to, and approved by the health department, the department of environmental and development services and department of public safety prior to receiving site plan approval for such uses.

(h) No vehicle parking, storage or display associated with such uses shall be permitted to occur on adjacent public rights-of-way.

(Ord. No. 04-2(R), 3/2/04)

Sec. 24.1-476. Standards for automobile graveyards, junkyards.

(a) Automobile graveyards and junkyards shall comply in all respects with the terms of the county automobile graveyard and junkyard ordinance (Chapter 5, York County Code). For any automobile graveyard or junkyard approved after the date of the adoption or re-adoption of this section, any conflict between the requirements imposed by Chapter 5 and this section shall be resolved in favor of the more restrictive provision.

(b) No storage shall be located in any required yard, buffer area, infiltration yards, transitional areas, required open space, or similar areas.

(c) To protect the use and development of abutting and adjacent property, a screen of hardy evergreen vegetation, an earthen berm with evergreen vegetation, or a fence, or any combinations thereof, shall be established and neatly maintained along the perimeter of any storage area of an automobile graveyard or junkyard, provided, however:

(1) That where existing vegetation on the subject parcel effectively meets the requirements of a perimeter screen as set forth above, no additional screen shall be required.

(2) That an area not exceeding a total of twenty feet (20') in width shall be exempt, when such area provides access to a gate constructed of opaque materials leading into the storage area.

The screen established shall be nontransparent, shall be a minimum of eight (8) feet in height, and shall completely obscure the contents of any storage areas within the automobile graveyard or junkyard from view from the abutting and adjacent property and all public rights-of-way. Junked or inoperable vehicles and equipment shall not be placed or deposited on the site to a height greater than the height of the landscaping, fence or other screening method installed to comply with this section. The walls of a building may be used to form a part of the screen required by this section; provided, however, the display or storage of goods thereon shall be prohibited.

(d) Fences shall be installed in accordance with all applicable requirements of this chapter relative to the "finished side." A greater height may be required by the county administrator in order to provide the necessary screening effect. Fencing shall be constructed using one or more of the following materials:

(1) Salt-treated or creosote-treated pine, cedar, cypress or similar decay resistant material.

(2) Protected metals, such as Teflon-coated steel, anodized aluminum or similar materials.

(3) Composite materials such as cementious planks, vinyl or PVC, or similar materials.

(4) Masonry construction such as brick, glazed terra-cotta or painted cinder block.

(e) Screening fences installed pursuant to this section shall not be used for billposting or other advertising purposes, except that a space may be used for the advertisement of the business of the owner thereof, when in compliance with the sign regulations contained in this chapter. Any advertising or identification sign placed on a fence shall be considered a freestanding sign and shall be subject to the limitations on freestanding signage established by this chapter.

(f) When landscaping is used to comply with the screening requirements, it shall be designed by a qualified professional, shall be suited to the area in which it is to be placed, and shall be sufficient in type, size and quantity to provide an immediate visual screen between ground level and eight (8) feet. All required landscaping shall be maintained in healthy condition and dead plant materials shall be removed and replaced within the next appropriate "planting season.

(g) When an earthen berm is used to form the screen required by this section, the minimum slope shall be three-to-one (3:1) and it shall be completely landscaped with evergreen shrubbery or vegetation planted in accordance with a landscape plan prepared by a qualified professional.

(h) All areas between the perimeter screen required herein and the property line of an automobile graveyard or junkyard which are not occupied by buildings, walkways, off-street parking facilities, driveways and other structures and improvements, shall be covered with such landscaping (types and quantities) as is required for such areas under the terms of this chapter.

(i) All highway entrances, on-site driveways and off-street parking areas accessible by the customers at an automobile graveyard or junkyard shall be constructed of a permanent, dustless surface consisting of asphalt, concrete or any equivalent paving material. Areas required to be paved shall include specifically all customer parking areas and any vehicle display areas.

(j) The display and storage of goods and materials associated with an automobile graveyard or junkyard shall be prohibited between the required perimeter screen and the property line, and shall also be prohibited in such other areas where display and storage is prohibited under the terms of the zoning district in which the property is located. For the purposes of this section, goods or materials associated with the use shall be construed to include, but are not necessarily limited to: vehicles; parts of vehicles; and vehicle and engine parts. These restrictions notwithstanding, passenger-carrying motor vehicles that meet the following requirements may be parked and displayed in a paved display area, surfaced in accordance with the requirements of this section, when:

(1) The vehicle displays a current Virginia inspection sticker;

(2) The rated capacity of such vehicle is limited to twelve (12) passengers or fewer; and

(3) No such displayed vehicle has deflated tires, body damage rendering it incapable of being driven, missing wheels, tires, doors, hoods, trunk lids, fenders, major body panels or roofs, broken or removed window glass, or missing exterior body paint.

The number of such vehicles displayed shall be limited to one (1) vehicle per paved parking/display space and all such spaces shall be compliant with the parking space and parking lot dimensional and design standards established in article VI of this chapter. Specifically, such display area shall meet the setback, parking space dimensions and aisle width standards set out in those requirements. Double-parking of displayed vehicles so as to require one vehicle to be moved before another can have direct

access to a circulation drive aisle shall be prohibited. Parking spaces for displayed vehicles shall be in addition to such customer/employee parking requirements as are specified by the Zoning Ordinance or by Special Use Permit condition.

(Ord. No. 07-12, 7/17/07)

Sec. 24.1-477. Standards for auto fuel dispensing establishments, service stations and auto repair garages.

Automobile fuel dispensing establishments, service stations, and auto repair garages shall comply with the following standards:

(a) Automobile service and minor repairs shall be deemed to include engine tuneups, oil changes and lubrication, and the repair or installation of mufflers, tailpipes, exhaust pipes, catalytic converters, brakes, shock absorbers, tires, batteries, and similar automotive components as determined by the zoning administrator. Repairs specifically shall not include body work and painting.

(b) All repair or installation work shall be conducted indoors. Used or damaged equipment removed from vehicles during the repair process shall be stored indoors or shall be deposited in an approved covered outdoor collection receptacle for appropriate off-site disposal.

(c) Temporary overnight outdoor storage and parking of vehicles waiting for repair or pickup shall be permitted. Appropriate and adequate parking areas shall be provided and set aside on the site for such vehicles. No long-term (ninety (90) days or more) storage and parking of vehicles which require major repair work shall be permitted.

(d) Landscaping supplemented by fencing if necessary shall be utilized to fully screen vehicular storage areas and to partially screen direct views of fuel islands, structures, and service bays from adjacent properties and rights-of-way. The plan to accomplish this shall be designed and prepared by a certified landscape architect.

(e) A traffic impact analysis must be performed in accordance with the requirements for same contained in article II. The recommended improvements must be fully implemented provided, however, that the zoning administrator shall require such additional improvements or traffic restrictions as may be necessary to ensure traffic safety and preserve roadway capacity.

(f) No logo, brand name, or sign which is legible from adjacent public roads may be placed on pumps or pump islands.

(g) Site lighting shall be provided by fixtures which are compatible in style and illumination levels with the architecture of the principal building on the site and are not greater than twenty-five feet (25') in height.

(h) In the event the fuel dispensing activity ceases at the automobile fuel supply establishment, written notice shall be provided by the owner/operator to the Zoning Administrator within seven days after such fuel dispensing activity ceases. In the event the fuel dispensing activity remains inactive for a period in excess of nine (9) months, the owner/operator shall be responsible for performing the following:

1. the tanks, tanklines, fueling equipment (including the gas pumps and fueling islands) shall be removed; all applicable state and federal environmental protection and mitigation requirements shall be observed in the removal and site restoration process;

2. the canopy shall be removed;

3. any inactive accessory car wash equipment associated with the fuel dispensing activity and the structure surrounding same shall be removed;

4. the real property in or on which the improvements listed in subsection (1), (2), and (3) above, are placed or constructed shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for same has been approved by the County. Except in the restored area that is established as landscaped green area, the paved area shall be re-striped to match the remainder of the parking lot.

The requirement to remove the above-noted equipment may be stayed for a maximum of six (6) months in the event the property owner provides documentation to the zoning administrator of the existence of an executed and pending contract for sale or lease of the property for the same use. If such an extension is granted, the actual conveyance, and the re-establishment of the use, must occur within said six (6) month

period. In the event such contract lapses, the removal requirement shall be immediately reinstated.

(i) The requirement to remove pumps, tanks, canopies and other appurtenances listed in the preceding subsection shall be ensured by the property owner/operator through a maintenance agreement, approved as to form by the county attorney, whereby the property owner/operator shall covenant to perform the required removal of any such tanks, pumps, canopies and other prescribed appurtenances within ninety (90) days of notice by the County and grant authority to the County to perform such work at the property owner's cost if the owner/operator should default on his obligations. The owner/operator shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the zoning administrator prior to issuance of any building permits for the proposed development.

(Ord. No. 04-2(R), 3/2/04)

Sec. 24.1-478. Standards for car washes.

Car washes, whether a principal or accessory use, shall comply with the following standards:

(a) Car washes shall utilize a low-volume water recycling system which provides for an average of at least eighty percent (80%) recycled water per wash.

(b) A traffic impact analysis must be performed in accordance with the requirements in article II, division 5. The recommended improvements must be fully implemented provided, however, that the zoning administrator shall require such additional improvements or traffic restrictions as may be necessary to ensure traffic safety and preserve roadway capacity.

(c) Site lighting shall be provided by fixtures which are compatible in style and illumination levels with the architecture of the principal building on the site and are not greater than twenty-five feet (25') in height.

(d) In the event the car wash activity, whether it is the principal or accessory use of the property, ceases operation, written notice shall be provided by the owner/operator to the Zoning Administrator within seven days after such activity ceases. In the event the car wash activity remains inactive for a period in excess of nine (9) months, the owner/operator shall be responsible for performing the following:

1. all car wash equipment and the structure surrounding same shall be removed;

2. the real property in or on which the improvements listed in subsection (1) above, are placed or constructed shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for same has been approved by the County. Except in the restored area that is established as landscaped green area, the paved area shall be re-striped to match the remainder of the parking lot.

The requirement to remove the above-noted equipment may be stayed for a maximum of six (6) months in the event the property owner provides documentation to the zoning administrator of the existence of an executed and pending contract for sale or lease of the property for the same use. If such an extension is granted, the actual conveyance, and the re-establishment of the use, must occur within said six (6) month period. In the event such contract lapses, the removal requirement shall be immediately reinstated.

(e) The requirement to remove the car wash equipment and surrounding structure listed in the preceding subsection shall be ensured by the property owner/operator through a maintenance agreement, approved as to form by the county attorney, whereby the property owner/operator shall covenant to perform the required removal of any such equipment/structure within ninety (90) days of notice by the County and grant authority to the county to perform such work at the property owner's cost if the owner/operator should default on his obligations. The owner/operator shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the zoning administrator prior to issuance of any building permits for the proposed development.

(Ord. No. 04-2(R), 3/2/04)

Sec. 24.1-479. Standards for vehicle body work and painting.

Vehicle body work and painting establishments shall comply with the following requirements:

(a) All work shall be conducted indoors.

(b) Used or damaged equipment removed from vehicles during the process shall be stored indoors or shall be deposited in an approved covered outdoor collection receptacle for appropriate off-site disposal.

(c) Temporary overnight outdoor storage and parking of vehicles waiting for repair or pickup shall be permit-

ted. Appropriate and adequate parking areas shall be provided and set aside on the site for such vehicles. No long-term storage (ninety (90) days or more) and parking of vehicles which require major repair work shall be permitted.

(d) Landscaping, supplemented by fencing if necessary, shall be utilized to fully screen vehicle storage areas from adjacent properties and street rights-of-way. The plan to accomplish this shall be designed and certified by a certified landscape architect.

(e) Ventilation systems shall be utilized which prevent objectionable emissions, including, without limitation, odors, paint particles, and residues from migrating to adjacent properties. Compliance with this standard shall be certified by a professional engineer or architect.

(f) When located adjacent to or near residential areas, sound baffles shall be utilized to prevent noise in excess of normal residential area background noise from being audible on adjacent and nearby residential properties.

(g) If adjacent to residential property, such uses shall not operate after 9:00 p.m. or before 7:00 a.m.

Sec. 24.1-480. Reserved.

DIVISION 12. SHOPPING CENTER AND BUSINESS PARKS (CATEGORY 13)

Sec. 24.1-481. Standards for shopping centers.

Shopping centers shall comply with the following performance standards:

(a) *Area requirements*. The minimum area required for the development of the various types of shopping centers, as defined in section 24.1-104, shall be as follows:

(1) Neighborhood Center: minimum lot area of forty thousand (40,000) square feet. The definition of Neighborhood Center notwithstanding, a shopping center may have as much as 15,000 square feet of gross leasable floor area and still be considered a “Neighborhood Center” if off-street parking is calculated and provided at the Community Shopping Center ratio.

(2) Community and Specialty Centers – minimum lot area of three (3) acres.

(3) For shopping centers otherwise permitted as a matter of right under the provisions of Section 24.1-306, a special use permit shall be required for any proposed development having 80,000 or more square feet of gross floor area. Any redevelopment involving an addition, expansion, renovation, enlargement, or other modification of an existing development that would increase the gross floor area to 80,000 or more square feet shall be subject to the standards and procedures applicable to amendment of special use permits set forth in Section 24.1-115(d) of this chapter.

(b) *Special dimensional standards*. Proposed shopping center developments shall be subject to the special dimensional standards specified herein, notwithstanding the district in which located:

(1) *Minimum lot width*.

a. Neighborhood Center - one hundred seventy feet (170')

b. Community and Specialty Centers - two hundred thirty feet (230')

(2) *Minimum building setback*.

a. Neighborhood Center

1. Parking in front of center - seventy-five feet (75')

2. All parking at side or rear - thirty feet (30')

b. Community and Specialty Centers

1. Parking in front of center - ninety feet (90')

2. All parking at side or rear - thirty feet (30')

c. For purposes of this paragraph only, "front" shall be determined by the principal road adjacent to the site and building orientation.

(3) *Minimum yard requirements*.

		Side	Rear
a.	Neighborhood Center -	20'	20'
b.	Community and Specialty Centers-	25'	25'

(c) *Screening and landscaping standards*. Shopping centers shall be subject to the following screening and landscaping standards notwithstanding the regulations of the district in which the center is located:

(1) A minimum twenty-foot (20') landscape yard shall be provided around the perimeter of the shopping center site. Along all public street frontages, landscape yards shall be expanded to twenty-five feet (25') and shall be landscaped with an appropriate combination of low-growing trees and shrubs to screen direct views of parking areas, but not necessarily the shopping center itself from adjacent public streets.

(2) Minimum landscaped open space for shopping centers shall be twenty-five percent (25%) of the net developable area of the site. The area of the required perimeter landscape yards and parking lot landscaped islands may be included when calculating such percentage. No less than fifty percent (50%) of the required site landscaping shall be located in front of the principal building on the site. Where the shopping center site is larger than twenty (20) acres, the amount of landscaped open space required may be reduced to twenty percent (20%) provided that no less than sixty-five percent (65%) of the required open space is located in front of the principal building in the center and that direct views of parking from adjacent public roads are significantly disrupted by landscape methods.

(3) Where no parking is provided or accommodated in front of the principal building on site, the otherwise required landscaping and open space may be reduced by twenty percent (20%) and the zoning administrator shall adjust the locational requirements of landscaping accordingly.

(4) All service and loading areas shall be screened from view from public streets and from first floor windows in adjacent residential districts through landscaping supplemented by other appropriate methods.

(5) Landscaping plans for shopping centers shall be prepared by a Virginia certified landscape architect.

(d) *Access and traffic control standards*.

(1) A traffic impact analysis, prepared in accordance with article II, division 5 of this chapter, shall be submitted for review by the county and the Virginia Department of Transportation. The analysis shall address access and internal circulation arrangements for the center and any out-parcels. The recommendations of the analysis, unless specified otherwise by the department of transportation, shall be fully implemented.

(2) Access to shopping center out-parcels shall be designed such that the internal circulation system alone provides adequate access to each proposed out-parcel. Individual access to existing public roads for out-parcels shall not be permitted except as may be approved by the zoning administrator upon the demonstration within the traffic impact analysis that such an individual access will improve internal circulation and not adversely affect traffic flows on the adjacent public roadway(s).

(3) Accommodations for pedestrian circulation must be provided throughout the center and shall be appropriately separated from vehicular circulation in order to minimize congestion and safety hazards.

(4) Bicycle use and circulation shall be adequately accommodated through, at a minimum, the provision of safe, secure, and convenient bicycle parking facilities.

(5) In consultation with the county, an area or areas shall be designated for one or more transit service stops. Said area(s) shall be sufficient to accommodate a transit shelter and an easement shall be granted to the county to erect such shelter should the county in its sole discretion choose to do so. The area(s) designated may be counted toward meeting open space requirements if comprised of landscaped areas(s).

(6) Buildings or groups of buildings within the center shall be oriented in relation to parking areas in

a manner which minimizes the need for internal automotive movement once patrons have entered the site. Facilities and access routes for shopping center deliveries, servicing, and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas.

(7) Lighting which is compatible in style and illumination with the architecture of the shopping center shall be provided at appropriate locations in order to adequately illuminate parking areas and vehicular and pedestrian circulation routes. All outside lighting on the site shall be arranged and shielded to prevent glare or reflection, nuisance, or inconvenience of any kind on adjoining streets or residential properties.

(Ord. No. 00-15, 8/15/00; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-482. Standards for business parks and industrial parks.

(a) Business parks and industrial parks shall comply with the following performance standards:

(1) *Permitted uses*. Uses permitted in business parks and industrial parks shall include the various types of establishments and uses listed as being permitted in the Table of Land Uses for the particular district in which located. In addition, in recognition of the special and unique characteristics of this type of development, the following uses shall also be permitted:

a. Day care centers, nursery schools

b. Technical, vocational, business schools

c. Conference centers

d. Post office stations

e. Health, exercise, fitness centers, swimming pools

f. Golf courses

g. Florists

h. Office equipment and office supply retail sales

i. Banks, financial institutions, brokerages

j. Hotels, motels

k. Sit down and carry-out restaurants

l. Printing, photocopying, blueprinting, reprographic, telecommunication, mailing, facsimile reception/transmission services and other similar business services

m. Emergency care and first aid centers or clinics

n. Computer hardware and software development and installation, including retail sales and service

o. Transportation services, including but not limited to helipads

p. All uses permitted as a matter of right in the IL district shall also be permitted as a matter of right in a business or industrial park located in the EO district.

(2) *Accessory uses*. Uses permitted as accessory uses within an office park or a business park, however not permitted as free standing uses include:

a. Boutiques, wearing apparel shops

b. Book, magazine, and card shops

c. Barber and beauty shops, personal care and grooming shops

d. Apparel services

e. Convenience stores

(3) *Area standard.* The minimum area required for the development of property under these provisions shall be five (5) acres.

(4) *Design standards*. Any office or industrial park developed under these provisions shall provide the following minimum design features:

a. Recorded restrictive covenants which serve to ensure the architectural and aesthetic unity of the proposed office or industrial park shall be established. Such covenants shall include controls to mandate that all building facades facing and visible to a public street or residential property be constructed of brick, architectural masonry, fluted block, glass, or an equivalent architectural treatment. Additional covenants relating to the design and maintenance of landscaping, environmental protection, buffering, fencing, and screening shall also be provided. Copies of the covenants shall be submitted to the county with development plans. The developers' legal counsel shall certify that the standards contained herein have been met and shall clearly define the manner in which met. These covenants shall be in addition to any covenants which may be necessary to comply with the provisions of division 17 of this article.

b. All ground areas within the park not developed in buildings, roads, driveways, pedestrian walkways, parking areas, loading areas, lakes, utility and drainage structures, or storage facilities shall be maintained with grass or other suitable ground cover and further landscaped with trees, shrubs, and flowering plants so as to create and maintain a "park-like" environment.

c. All streets and roads within the development shall be designed and dedicated for public use.

d. Outdoor architectural lighting shall be provided at least at all major roadway intersections in order adequately to illuminate vehicular and pedestrian circulation routes, particularly at potential points of conflict. All outside lighting on the site shall be arranged and directed to prevent objectionable glare or reflection, nuisance, or inconvenience of any kind on adjoining streets or residentially classified or developed properties. Lighting fixtures and the intensity of illumination shall be compatible with both the natural and architectural characteristics of the development.

(5) *Open space, screening, and landscaping standards.* Proposed business park developments shall be subject to the following additional open space, screening, and landscaping standards notwithstanding the regulations of the district in which they are located:

a. No outdoor storage of goods or materials shall be permitted in any front yard nor shall it encroach upon any required landscaping, public or private street right-of-way, parking facility, or loading space.

b. All dumpster pads, loading areas and outdoor storage areas shall be screened from view of all public streets or residential properties by landscaping supplemented by masonry or wooden fencing.

c. Parking facilities located in front of the principal building in business parks shall be landscaped to provide one (1) deciduous shade tree and three (3) shrubs per each five (5) parking spaces.

(6) *Access and traffic control standards*. Access and internal traffic circulation shall be designed to promote the safe and harmonious flow of vehicular and pedestrian traffic within the development and to limit the disruption of external traffic. The following general standards shall apply to all developments utilizing these provisions:

a. Access to individual lots within the office park or industrial park shall be exclusively from a public internal road system. The zoning administrator may modify this requirement in consideration of the topography and configuration of the site.

b. Buildings and uses or groups of buildings and uses within the development shall be oriented to each other and in relation to parking areas and pedestrian and bicycle circulation routes in order to minimize the need for excess internal traffic movements.

c. Within business parks, bicycle and pedestrian circulation systems may be installed within the required front landscape yard of properties in the park.

(b) *Procedure.*

(1) The zoning administrator shall review and make a determination in writing regarding the applicability of these provisions to any particular development at the time that a preliminary site plan or subdivision plan is submitted for review to the county.

(2) In making a determination regarding the applicability of these provisions to any proposed development, the zoning administrator shall specifically review the following:

a. The adequacy of the proposed restrictive and protective covenants in promoting and ensuring an aesthetically pleasing "park-like" environment.

b. Compatibility of the proposed design with the policies established within the comprehensive plan.

c. The provision of safe and convenient pedestrian and vehicular circulation and access.

d. The adequacy of all proposed landscaping and screening or the ability to provide adequate landscaping and screening.

e. Those features which serve to clearly differentiate the proposed park from typical office or industrial subdivisions.

(3) The restrictive and protective covenants required herein shall be recorded contemporaneously with the first plat.

(4) A traffic impact analysis prepared in accordance with article II, division 5 of this chapter shall be submitted to the county and the Virginia Department of Transportation at the time of application. The recommendations of said analysis shall, unless specified otherwise by the Virginia Department of Transportation or the zoning administrator, be fully implemented.

(5) The zoning administrator may deny requests for approval of business parks upon finding that such proposal does not meet the purposes, intent, or standards established herein, or when such proposal would not be in accord with adopted plans or policies, or would be incompatible with existing and planned land uses, or would create adverse traffic congestion and conditions beyond that which could occur as a matter of right, or would not be in furtherance of the public health, safety, or welfare.

(6) Final plats recorded for a business park and all deeds for lots within such development shall bear a statement indicating that the land is within an approved business park and shall specifically reference the existence of the restrictive and protective covenants.

DIVISION 13. WHOLESALING AND WAREHOUSING USES (CATEGORY 14)

Sec. 24.1-483. Standards for all wholesaling and warehouse uses.

(a) Warehouses and similar structures of thirty thousand (30,000) square feet or greater shall have fire lanes surrounding the structure(s) unless approved otherwise by the director of public safety.

(b) Outdoor storage shall be screened from view from adjacent residential properties.

(c) Outdoor storage shall not be located closer than twenty-five feet (25') to any property line.

(d) Bay doors shall be oriented away from streets and residential properties or screened from direct view by landscaping means.

(e) Such uses shall be designed to minimize the noise impact of trucks, forklifts, and other heavy equipment on adjacent properties and to prevent such noise from being audible on adjacent or nearby residential properties at any greater level than typical for residential areas.

(Ord. No. 06-19(R), 7/18/06)

Sec. 24.1-484. Standards for mini-storage warehouses.

(a) All storage for mini-storage warehouses shall be within a completely enclosed building, provided, however, that the outdoor accessory storage of recreational vehicles on the same site is acceptable if such storage is screened from view from adjacent streets and residential properties. However, no outdoor RV storage or parking shall be permitted in conjunction with any mini-warehouse facility located in a GB-

General Business zoning district.

(b) Loading docks shall not be permitted as part of the storage buildings. At least two exterior service doors shall be provided for any multi-story mini-warehouse facility. Such doors shall be at ground/sidewalk level. Exterior service doors for any multi-story mini-warehouse facility in a GB District shall not be located on any building exposure facing a public street and shall be limited to a maximum of one (1) each for other facades.

(c) Except for purposes of loading and unloading, there shall be no parking or storage of trucks, trailers, and moving vans.

(d) The minimum distance between warehouse buildings shall be twenty feet (20'). Where vehicular circulation lanes and parking and loading spaces are to be provided between structures, the minimum separation distance shall be increased accordingly in order to ensure vehicular and pedestrian safety and adequate emergency access.

(e) No activities such as sales or servicing of goods or materials shall be conducted from such storage units. The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles is a part of such business.

(f) Storage of hazardous and flammable materials shall not be permitted.

(g) The maximum length of any single single-story mini-storage building shall be two hundred (200') feet.

(h) If proposed in the GB-General Business district, multi-story mini-storage warehouse structures shall be designed to include retail or office space occupying at least 80% of the total floor area on the ground floor of the structure and not related to the mini-warehouse operation. Such retail and or office space shall be designed to occupy the entire first floor width of any building façade facing a public street. The remaining 20% of the first level floor area may include the entrance corridors, service elevator(s), manager's office and other non-storage components associated with the self-storage units located on the upper levels of the structure.

In the GB District, all building facades of multi-story mini-storage warehouse structures shall be designed and constructed to meet the architectural design standards specified for the Route 17 Corridor Overlay District (section 24.1-378), whether or not said structure is located in the Route 17 overlay area. Consideration should be given to incorporating faux windows in the street-facing facades of the upper level storage areas to give the appearance of office space provided, however, that other appropriate design techniques may also be proposed and considered.

(Ord.No. 06-19(R), 7/18/06)

DIVISION 14. LIMITED INDUSTRIAL USES (CATEGORY 15)

Sec. 24.1-485. Standards for all limited industrial uses.

(a) All off-street parking and loading space for limited industrial uses shall be located not less than thirty-five feet (35') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.

(b) Structures of thirty thousand (30,000) square feet or greater shall have fire lanes surrounding the structure(s) unless approved otherwise by the director of public safety.

(c) Bay doors shall be oriented away from streets and residential properties or screened from direct views by landscape means.

(d) Outdoor lighting shall be sufficient to protect public safety; however, it shall not cast unreasonable or objectionable glare on adjacent properties and streets.

(e) Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.

(f) All industrial uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.

(g) Service drives or other areas shall be provided for off-street loading in such a way that in the process of loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any fire lane or other public or private drive or street used for circulation.

Sec. 24.1-486. Standards for home improvement and building contractors' shops and storage yards.

(a) Storage yards for construction materials and equipment shall be designed and located so as to minimize visual impacts on adjacent properties and public rights-of-way. Landscaping supplemented by fencing, if necessary, shall be required to enclose and screen such storage yards from direct views from adjacent public streets or from adjacent commercial or residential properties. The location of such outdoor storage areas shall be consistent with all applicable standards of the district in which located.

(b) All portions of such storage yards shall be treated and maintained in such manner as to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. Such yards shall be maintained in a clean and orderly manner. Junk construction residue and debris shall not be permitted to be stored.

Sec. 24.1-487. Standard for publishing and printing establishments.

All necessary state and federal environmental permits for the printing process shall be obtained, or evidence that they are not required provided, prior to approval of any plan of development for publishing and printing establishments.

Sec. 24.1-488. Standards for recycling centers and plants.

(a) Unless operated within a fully enclosed building with sound attenuation materials or devices, mechanical motorized equipment shall not be located within two hundred feet (200') of any adjoining property which is within a residential zoning district. This shall not be interpreted to preclude the occasional use of trucks and loading or moving equipment, but is intended to apply to permanent or semi-permanent installation of large processing equipment.

(b) The proposed use shall have access to a public street of sufficient capacity to convey the anticipated traffic associated with the proposed use, as verified by a traffic impact statement provided by the applicant. Unless otherwise stipulated by the zoning administrator in recognition of the scale of the proposed use, the traffic impact statement need not be prepared in full compliance with article II-division IV, but shall be sufficient to determine whether the adjacent roads have sufficient capacity to accommodate the use.

(c) When located adjacent to or near residential area, sound baffles or other noise attenuation devices and structures shall be utilized to prevent noise in excess of normal residential area background noise from being audible on adjacent and nearby residential properties.

DIVISION 15. GENERAL INDUSTRIAL USES (CATEGORY 16)

Sec. 24.1-489. Standards for all general industrial uses.

(a) All off-street parking and loading space for general industrial uses shall be located not less than thirty-five feet (35') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.

(b) Structures of thirty thousand (30,000) square feet or greater shall have fire lanes surrounding the structure(s) unless approved otherwise by the director of public safety.

(c) Outdoor lighting shall be sufficient to protect public safety, but shall be arranged so as to prevent objectionable glare on adjacent properties and streets.

(d) Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.

(e) All industrial uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.

(f) Service drives or other areas shall be provided for off-street loading in such a way that in the process of

loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any fire lane or other public or private drive or street used for circulation.

Sec. 24.1-490. Standards for extractive industries or surface mining (borrow pits).

No surface mine shall be established, operated, or enlarged except as shall be permitted by use permit, the provisions of article VIII dealing with nonconforming uses notwithstanding. In granting said use permit, the board may authorize the establishment of, or any expansion or enlargement of, surface mining operations, subject to the following conditions, as well as any other reasonable conditions which the board determines to be necessary.

The restoration or reclamation of nonconforming, inactive, or abandoned borrow pits utilizing clean fill soil and operated subject to the following conditions may be authorized by the zoning administrator. The depositing of any material other than clean fill soil shall be authorized only by a use permit issued by the board.

(a) *Application requirements*. Any application for the authorization of such use shall be accompanied by the following:

(1) A report and other supporting materials, applicable for operation or restoration of a mine, providing all information required under the application requirements of the Virginia Minerals Other than Coal Surface Mining Law and the Virginia Department of Environmental Quality.

(2) A standard soils analysis, including an analysis of the load bearing factors, of the property, prepared by a geologist who is certified by the American Institute of Professional Geologists, meets the requirements for certification as a geologist of the Commonwealth of Virginia, or is licensed as a geologist in another state, or by a standard testing laboratory, or by a Virginia registered civil engineer, or by a Virginia certified soils scientist, and approved by the Soil Conservation Service, and including results of test borings, and a written report setting forth the range of effects of the proposed operation upon the stability of soils, the water table, wells and septic fields on the subject property and all adjoining properties, and other soil factors which may have an effect upon nearby properties.

(3) The proposed date on which excavation will commence, the proposed date on which the excavation will be completed, and the proposed date that all required restoration measures are to be completed.

(4) A statement listing the public streets and highways to be used as haul routes.

(5) An estimate of the number of trucks proposed to enter and leave the property per day.

(6) The proposed hours of operation each day and the proposed days of operation during the week.

(7) A hydrology study containing the following:

a. Surface drainage data;

b. Location and depth of existing public and private wells, constructed drainage ways, and streams and other natural waterways;

c. Impact of excavation on existing public and private wells located within two thousand feet (2000') [600m] of the proposed boundaries of the surface mine;

d. Impact of excavation on quantity and quality of groundwater and surface water; and

e. Method(s) to be used to dispose of excess water during excavation, including details of any proposed filtration system(s).

(b) *Requirements pertaining to location, operation, and restoration of surface mines*

(1) No permit to operate, enlarge or extend a surface mine shall be issued for any tract or combination of contiguous tracts of land containing less than ten (10) acres. This minimum acreage shall not apply to proposals involving the restoration of nonconforming, inactive, or abandoned surface mines.

In the case of enlargement or extension of existing surface mining operations, both the existing surface mine and any proposed extension or enlargement thereof shall be subject to all requirements set forth herein.

No permit shall be approved for any location which is in close proximity to existing development or any area that the board finds is undergoing, or is likely in the reasonably near future to undergo, development, whether residential, commercial or industrial, which development would, in the opinion of the board, be rendered impossible or adversely affected in any way by the existence or operation of such surface mine. No such permit shall be granted if, in the opinion of the board, the site is not likely to be restored to a usable and productive purpose and a condition conducive to the public health, safety and welfare.

(2) *Access requirements*.

a. Local residential streets shall not be used for access to the surface mining operations. The permittee shall be limited to using those routes which are specified in his application and approved by the board in authorizing the use permit.

b. In the case of mining and restoration projects, all on-site access roads and driveways shall be maintained so as to prevent the creation of dust and shall have an appropriate surface treatment which will prevent the depositing of mud, debris, or dust onto any public street.

c. Any access road shall be a minimum of twenty feet (20') from any property line except at any point of access to any public right-of-way.

d. The zoning administrator or the board may, in consultation with VDOT, require the operator to post a letter of credit in an amount sufficient to cover any potential damages to the public road system attributable to the operation.

(3) All buildings, structures, storage areas, and accessory activities associated with the mining operation shall be subject to all applicable requirements of the zoning district in which the proposed surface mine is to be located. This is not to be interpreted to preclude the placement on-site of temporary accessory structures which are to be removed upon expiration of the permit.

(4) *Elimination of noise, dust, and vibration*.

a. All equipment used for the extraction or transportation of materials shall be constructed, maintained, and operated in such a manner as to eliminate any noise, dust, or vibration which would be injurious or annoying to persons living in the vicinity.

b. All storage areas, yards, service roads or other non-vegetated open areas within the boundaries of the surface mining area shall be maintained so as to prevent dust or other wind blown air pollutants. Proposed methods of dust control and equipment proposed for such control shall be included in the plan of operation and shall be located at the site during such operations.

c. Trucks shall not be loaded beyond design capacity and, if deemed necessary by the zoning administrator as a result of the types of materials being transported, shall be covered with a tarpaulin or other appropriate device so as to prevent hauled materials from being deposited or spilled during transport upon any public or private lands or property. In the case of restoration operations involving filling with construction debris or similar materials, the board may require that the applicant's procedures for operation include a requirement that all trucks hauling materials to the site and allowed to dump said materials have a tailgate or be covered or both in order to prevent materials from being spilled during transport. If established, compliance with said requirement shall be the responsibility of the operator of the site.

(5) The mining activity shall be conducted between sunrise and sunset and shall have no Sunday operations. This shall not be deemed to preclude necessary maintenance of equipment essential for public health and safety at other times.

(6) A fence of not less than six feet (6') in height, constructed of meshed wire or other materials, approved by the zoning administrator, shall be required around the portion of the site being mined, areas where equipment is being operated, and all access roads, if deemed necessary by the board in order to protect the public interest, safety, and welfare.

(7) Gates shall be constructed at all entrances and shall be kept locked at all times when operations are not underway.

(8) The site shall be conspicuously posted with "NO TRESPASSING" signs on its periphery. The signs shall be posted in such a manner and at such intervals as will give reasonable notice to

passersby that trespassing is prohibited. In recognition of the location of the proposed site the board may require the installation of a perimeter access and observation road around the area being mined. Such road, if required, shall be located outside of and adjacent to the required security fencing and shall be maintained at all times in a passable condition so as to allow patrol by law enforcement personnel.

(9) Setback areas for surface mine operations shall be:

a. Not less than two hundred feet (200') from any property line or street right-of-way in any zoning district.

b. Exterior limits of all areas to be excavated shall be delineated prior to beginning operation in accordance with the areas of excavation as shown on the approved operations plan with iron markers extending no less than five feet (5') above the surface of the earth.

(10) Surface mines shall be operated and maintained in a neat and orderly manner, free from junk, inoperable equipment, trash, or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Weeds shall be cut as frequently as necessary, but not less than twice a year. Only that equipment which is used in the operation of the surface mine shall be maintained and stored on the site, unless, however, vehicle storage or maintenance is permitted in the zoning district in which such mining activity is located.

(11) The following drainage requirements shall be met during the operation of the surface mine:

a. The property shall be graded so as to prevent standing water which would or could reasonably be expected to constitute a safety or health hazard.

b. Existing drainage channels shall not be altered in such a way that water backs up onto adjoining properties or that the peak flow of water leaving the site exceeds the capacity of the downstream drainage channel.

(12) During mining operations, no slope shall be created which will, through slides, sinking, collapse, or erosion, or any other means, cause any change in the elevation of the required setback area.

(13) The operation of the surface mine shall at all times comply with the applicable provisions of the Virginia Erosion and Sediment Control Handbook, 3rd Ed., 1992 or subsequent amendments thereto.

(14) Overburden shall not be removed from an area larger than could be mined within one year.

(15) The operation of the surface mine shall not be conducted in a manner which would or could reasonably be expected to cause negative impacts on groundwater level and quality. The soils analysis required as part of the use permit application shall set forth the particular methods of operation necessary to ensure that negative impacts will not occur. Such report shall be subject to the review and approval of the zoning administrator.

(16) The use of explosives in conjunction with the mining activity shall not be permitted.

(17) Maintenance of equipment shall be conducted in such a fashion as to not allow the depositing of oil, grease, or other deleterious materials on the ground or within the confines of any future lake area.

(c) *Restoration*.

(1) Restoration of excavated areas shall proceed in a coordinated and continuous manner designed to minimize the disturbed area and shall be subject to review and approval by the zoning administrator as each phase of the operation, as described in the Operations Plan, is completed.

(2) Restoration of excavated areas shall be accomplished using materials and procedures, approved by the zoning administrator, which will result in the site being restored to a condition capable of supporting the types of land uses envisioned by the adopted comprehensive plan. Materials and procedures for filling shall be described in the Restoration Plan. Filling shall meet the requirements of the State Health Department and chapter 10, Erosion and Sedimentation Control, of this Code. In the case of restoration and reclamation projects, fill materials shall be limited to clean soil unless the board, issues a special use permit which specifically permits filling with materials such as demolition wastes, construction wastes, tree trimmings, stumps and other inert wastes. Under no circumstances shall fill materials include household, commercial or industrial wastes, sludge material, asbestos, tires, ash, and any hazardous wastes, including the

following general classes of materials:

a. oil and oil products;

b. radioactive materials;

c. any material transported in large commercial quantities (such as in 55-gallon drums), which:

1. is a very soluble acid or base;

2. causes abnormal growth of an organism or part thereof; or

3. is highly biodegradable, exerting a severe oxygen demand;

d. biologically accumulative poisons;

e. the active ingredients of economic poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide Fungicide and Rodenticide Act, as amended (7 USC 135 et seq.);

f. substances highly lethal to mammalian or aquatic life.

(3) Any overburden, unused stockpiles of materials, or topsoil stockpiles remaining at the completion of the mining operation shall be graded in such a manner as to conform with the approved restoration plan.

(4) Final grading of disturbed and restored areas shall not exceed a slope ratio of four horizontal to one vertical (4:1) or the normal angle of repose for the soil type on the site, whichever is less, except as required otherwise for slopes within proposed lakes or ponds. Slopes shall be improved with structures such as terraces, berms, waterways, etc. to accommodate surface waters, where necessary, and to minimize erosion due to surface runoff. Slopes shall be stabilized and protected with permanent vegetative or riprap covering. The surface of the restored surface mine site shall have a minimum slope of one percent (1%).

(5) Restored areas shall be planted with grass, trees, shrubs, or other vegetation to prevent erosion and to achieve a permanent and protective cover and enrich the soil. The types of vegetation to be used shall be described in the restoration plan and shall meet the requirements of the Virginia Minerals Other Than Coal Surface Mining Law. Revegetation shall take place as soon as is practicable based on seasonal growing conditions, after mining operations have ceased in the particular area involved.

(6) The site shall be graded so as to prevent standing water except in an approved lake or pond.

(7) The site shall be graded so as to ensure that natural and stormwater runoff, both on-site and off-site, can be adequately accommodated.

(8) Any proposed lakes or ponds shall be no less than seven feet (7') in depth or such greater depth as may be determined necessary by the director of environmental and development services except as provided herein. A slope ratio of five horizontal to one vertical (5:1) shall be maintained from the mean shoreline to a depth of seven feet (7'). Below a depth of seven feet (7') the slope shall be no more than the normal angle of repose for the soil type in the pond. Ponds shall be stocked with fish which will eliminate mosquito larvae and other insects as determined by the director of environmental and development services.

(9) The restored surface mine shall not be likely to adversely impact groundwater level and quality. The soils analysis required as part of the use permit application shall set forth the restoration methods necessary to ensure that negative impacts will not occur. Such report shall be subject to the review and approval of the zoning administrator.

(10) Residential streets shall not be used to access the site unless the board shall specifically authorize their use after conducting a duly advertised public hearing.

(11) Upon expiration of the use permit, or in the event active mining operations have ceased for any period exceeding twelve (12) consecutive months, all plants, buildings, structures (except fences), stockpiles, and equipment shall be removed from the site, unless such were indicated on the approved restoration plan, and the site shall be restored as described in said restoration plan.

(d) *Required plans.* Prior to commencement of the use, the following plans shall be submitted to the zoning administrator for review and approval:

(1) *Site plan* - prepared in accordance with the requirements of article V of this ordinance.

(2) *Operations plan containing the following information*:

a. A general description of the type and quantity of equipment to be used in connection with the use, including bulldozers, cranes, washers, crushing equipment, trucks, and all other mechanical equipment.

b. Operating practices proposed to be used to eliminate noise, dust, air contaminants, and vibration.

c. Methods proposed to be used to prevent pollution or interruption of surface or underground water.

d. Methods proposed to be used to prevent erosion of areas exposed during operation and prior to final restoration of the site. Also, methods proposed to be used to prevent sedimentation of waterways during operation and prior to final restoration of the site. Methods shall be in compliance with the Virginia Erosion and Sediment Control Handbook, 3rd Ed., 1992, or subsequent amendments thereto.

e. Surface treatment of access roads to eliminate dust and deposit of mud on public roads.

f. A statement of the estimated time and sequence within which excavation and any staged operation thereof is to be commenced after the granting of approval and the estimated time when each stage is to be completed and restored.

g. Proposed methods for ensuring that oil, grease, or other deleterious materials from equipment maintenance are not deposited on the ground or within the confines of any proposed lake area.

(3) *Restoration plan shall meet the following requirements:*

a. The restoration plan shall provide for the following:

1. A timetable for restoring the areas used for surface mining which incorporates the use of a coordinated and continuous method designed to minimize disturbed areas and which shows evidence of compliance with the following:

a) Methods proposed for restoration shall be in compliance with the Virginia Erosion and Sediment Control Handbook, 3rd ed., 1992, or subsequent amendments thereto;

b) Final restoration work shall be initiated within one year after mining or related activity ceases on any segment of the site where mining has occurred and shall be completed within three years of the cessation of the mining activity.

2. The proposed use of the site after restoration shall be stated and the ability of the restored site to accommodate the proposed use shall be demonstrated through a series of conceptual plans and sketches. The proposed use shall be consistent with the land use designation established for the site by the comprehensive plan.

In the event there are no firm plans for future development of the site, a series of conceptual plans and sketches demonstrating that the physical attributes of the restored area could accommodate the types of land use envisioned by the comprehensive plan shall be prepared. It is understood that this may be a hypothetical exercise; however, it will be evaluated as such and will not be considered a commitment to the use portrayed.

b. The restoration plan shall address the following where applicable:

1. Restoration of stream banks and channels to prevent erosion, sedimentation, and other water pollution effects of stream flow from exceeding their degree before the mining.

2. Sloping and other control to stabilize final surfaces and minimize public hazards.

3. Vegetating disturbed areas in a manner conducive to restoring them to a natural state consistent with the future use of the property and without any maintenance being required.

4. Drainage control to prevent pools of water from becoming public nuisances or health or safety hazards.

5. Immediate removal of structures and equipment after termination of the mining or when it is no longer in use at the site.

6. Otherwise minimizing the adverse impact of the mined land on the livability, value, and appropriate development of adjacent property.

c. Appropriately trained professionals, such as biologists and geologists, shall participate in the development of the restoration plan to ensure and certify, to the extent possible, the long term viability of any proposed lake or pond.

(e) *Processing and approval*. The zoning administrator shall be the final plan approving authority, however, no final action shall be taken until the comments and recommendations of all reviewing agencies and departments have been received.

(f) *General requirements*.

(1) The staging of the mining operation shall occur within a period not to exceed five (5) years unless a greater time period is authorized specifically by the board. Such period shall commence on the date of approval of all plans and submissions required herein.

(2) The following requirements shall govern the posting, reduction, forfeiture, and release of surety for surface mines:

a. Prior to commencement of the authorized activity, the permittee shall post with the zoning administrator a certified check, letter of credit, or cash escrow with surety satisfactory to the zoning administrator, approved as to form and content by the county attorney, guaranteeing the faithful performance of all conditions and requirements of the use permit. The amount of such surety shall be approved by the zoning administrator and shall be sufficient to guarantee performance of approved and required methods of operation such as, but not limited to, dust control, drainage, and erosion control, and to guarantee the restoration of the site in accordance with the approved restoration plan at such time as the restoration is scheduled to take place.

b. If the site is to be disturbed and restored in phases, the surety may be reduced in a manner approved by the county attorney and an amount approved by the zoning administrator as phases are completed and approved, leaving adequate surety to ensure operation and restoration of the entire site in accordance with the approved operations and restoration plans.

c. In the event the approved operation plan or approved restoration plan have not been followed, the zoning administrator shall require the forfeiture of such surety to cover the cost of necessary operational and restoration activities.

d. Except as provided hereinabove, surety shall not be released until the zoning administrator certifies that the requirements of the approved restoration plan have been met. In this regard, the zoning administrator may, in order to evaluate the adequacy and success of re-vegetation efforts, delay the final release of surety guarantee for two (2) growing seasons after the time of planting.

(3) The following requirements shall govern any proposed changes in the approved plans of operations or restoration:

a. If a permittee proposes changes in an approved original plan, or if additional land not shown as a part of the approved operation plan is to be disturbed, the permittee shall submit an amended application, operations plan, and Restoration Plan which shall be reviewed in the same manner as an original plan and shall be subject to all provisions of this ordinance, as amended.

b. All amendments, changes, and modifications of plans shall be valid only when evi-

denced by a written approval from the zoning administrator.

c. A reasonable extension of time may be granted by the zoning administrator when he finds that weather conditions make compliance with an approved time schedule impractical.

Sec. 24.1-490.1 Standards for soil stockpiling.

(a) When soil is dumped or deposited on a parcel of land for the purpose of storage, whether temporary or long-term, and the deposits of soil cover a total cumulative land area exceeding 2,500 square feet, or the deposit exceeds eight (8) feet from the natural grade at its maximum height, then the activity shall be considered a soil stockpile and shall be subject to the permitting and performance standards set forth in this section and in section 24.1-306, provided, however, that the following specific activities shall not be considered to be soil stockpiling:

(1) Activity such as the removal and stockpiling of topsoil on a site being developed pursuant to a development or site plan approved by the county for that property;

(2) Placement of soil on a site for the purpose of changing the natural grade for purposes such as filling low spots, improving drainage, or improving the suitability of a site for building;

(3) Placement of soil for temporary storage purposes at depths greater than one (1) foot, covering a cumulative area of less than 2,500 square feet, and when all of the following conditions are met:

a. the soil is not mounded higher above the natural existing grade than eight (8) feet;

b. the deposits or mounds of soil are no closer to any property line than the minimum principal building setback for the district in which located;

c. the soil deposits do not block, encroach on or otherwise adversely affect stormwater drainage;

d. the soil deposits are not within the dripline of any tree on or abutting the subject property;

e. the soil is removed from the site, or distributed and graded across the site to depths of less than one (1) foot, within one (1) year.

Any and all of the activities listed above shall be required to comply will all applicable Land Disturbing Activity permitting regulations and standards.

(b) *Prohibited materials*. Nothing herein shall be construed to allow the creation of stockpiles of anything other than clean soil, including, but not limited to, the following specifically prohibited materials:

(1) the creation of stockpiles of any material constituting: commercial/business waste; construction, clearing and/or demolition waste; garbage; hazardous waste; household waste; industrial waste; institutional/governmental waste; residential/household waste; solid waste; trash; or, unacceptable waste as such terms are defined in chapter 19 of the York County Code.

(2) the creation of stockpiles of sand, gravel, stone, wood chips/mulch or similar materials.

(c) *Permitting.* Unless authorized by an Administrative Permit in accordance with subsection (d) below, soil stockpiling shall be allowed only by Special Use Permit granted by the Board of Supervisors. In approving a Special Use Permit for a soil stockpiling operation, the Board of Supervisors may establish such term limits as it deems appropriate in consideration of the location and characteristics of the operation and its surroundings.

(d) *Administrative Permits*. The Zoning Administrator shall have the authority to approve Administrative Permits for temporary soil stockpiling in the RR-Rural Residential District for locations that are at least three hundred feet (300') from any existing residential structure on any adjacent residentially-zoned property, or in the non-residential districts for locations which are at least two hundred feet (200') from any existing residential structure on any adjacent residentially-zoned property.

Administrative Permits shall be limited to a maximum term of two (2) years and the temporary soil storage stockpile shall be removed from the site prior to the expiration of the Permit. In the event the operator wishes to maintain the temporary soil stockpile beyond the term of the Administrative Permit, he may apply to the Board of Supervisors for an extension, which extension may be granted by the Board by Resolution for such additional time period as the Board deems appropriate.

(e) *Requirements pertaining to location and operation of soil stockpiles.* Except as provided otherwise in subsection (d) regarding setbacks for Administrative Permit situations, all soil stockpiling permitted either by Administrative Permit or Special Use Permit shall be subject to the following conditions:

(1) *Access.*

a. Local residential streets (i.e., those platted/created as a component of a recorded subdivision) shall not be used for access to the stockpile site. The permittee shall be limited to using those routes which are specified in the application and approved by the county in authorizing the permit.

b. All on-site access roads and driveways shall be maintained so as to prevent the creation of dust and shall have an appropriate surface treatment which will prevent the depositing of mud, debris, or dust onto any public street.

c. Any access road shall be a minimum of twenty feet (20') from any property line except at any point of access to any public right-of-way.

d. If determined necessary by the Virginia Department of Transportation (VDOT), the operator shall be required to post a letter of credit in an amount sufficient to cover any potential damages to the public road system attributable to the operation.

(2) Soil stockpiles shall not be placed within the dripline of any tree nor shall the cutting or clearing of trees be permitted in order to provide space for a stockpile or any associated elements, such as haul roads.

(3) The activity shall be conducted between local sunrise and sunset and shall have no Sunday operations, unless for necessary maintenance of equipment essential for public health and safety.

(4) *Elimination of noise, dust, and vibration*.

a. All equipment used for the transportation or movement/grading of soil shall be constructed, maintained, and operated in such a manner as to eliminate any noise, dust, or vibration which would be injurious or annoying to persons living in the vicinity.

b. All service roads or other non-vegetated open areas within the boundaries of the site shall be maintained so as to prevent dust or other wind blown air pollutants. Proposed methods of dust control and equipment proposed for such control shall be included in the plan of operation and shall be located at the site during such operations.

c. Trucks shall not be loaded beyond design capacity and loads shall be covered as required by state law so as to prevent hauled materials from being deposited or spilled during transport upon any public or private lands or property.

(5) Setback areas for soil stockpiles shall be:

a. Not less than fifty (50) feet from any property line in any zoning district;

b. Not less than one hundred (100) feet from any existing structure;

All existing trees, bushes, shrubs and other vegetation within such setback areas shall be protected and preserved during and after the stockpiling operation and the approving authority may require the installation of trees or shrubs to help buffer the view of any stockpiles authorized on vacant/un-vegetated sites.

(6) The approved exterior limits of all areas where soil will be stockpiled shall be delineated with

construction fencing or other method acceptable to the zoning administrator prior to beginning operation.

(7) The height of the soil stockpile shall be limited as a function of the following design parameters:

a. one (1) foot of stockpile height for each two (2) feet of setback from any perimeter property line;

b. side slopes shall not exceed 3:1 (horizontal:vertical);

c. the absolute maximum height of any stockpile shall be twenty-five (25) feet in a residential district and forty (40) feet in a commercial or industrial district; and

d. no stockpile shall exceed the height of the treeline on or abutting the stockpile site.

(8) The following drainage requirements shall be met during the operation:

a. The property shall be graded so as to prevent standing water which would or could reasonably be expected to constitute a safety or health hazard.

b. Existing drainage channels shall not be altered in such a way that water backs up onto adjoining properties or that the peak flow of water leaving the site exceeds the capacity of the downstream drainage channel.

(9) The operation shall at all times comply with the applicable provisions of the Virginia Erosion and Sediment Control Handbook promulgated by the Virginia Soil and Water Conservation Board.

(10) Maintenance of equipment shall be conducted in such a fashion as to not allow the depositing of oil, grease, or other deleterious materials on the ground or into drainageways.

(f) *Required plans.* An application for approval of an Administrative Permit or a Special Use Permit shall include a site plan and an operations plan, as follows:

(1) *Site plan* - prepared in sufficient detail to demonstrate compliance with all applicable performance standards.

(2) *Operations plan containing the following information*:

a. The proposed date on which the operation will commence, the proposed date on which the operation will be completed, the proposed date that all required stabilization measures are to be completed, and a statement as to the proposed ultimate disposition of the stockpile and the length of time that it will remain on the site.

b. A statement listing the public streets and highways to be used as haul routes.

c. The proposed hours of operation each day and the proposed days of operation during the week.

d. A general description of the type and quantity of equipment to be used in connection with the use, including bulldozers, trucks, and all other mechanical equipment.

e. Operating practices proposed to be used to eliminate noise, dust, air contaminants, and vibration including information on the proposed treatment of access roads to eliminate dust and deposit of mud on public roads.

f. Proposed methods for ensuring that oil, grease, or other deleterious materials from equipment maintenance are not deposited on the ground or within the confines of any drainageways.

Sec. 24.1-491. Standards for office and construction trailer storage yards.

Office and construction trailer storage yards shall conform with the following standards:

(a) Such establishments shall be for the purpose of storage of office and construction trailers which are available for rent or lease on a temporary basis in conjunction with construction projects being conducted on other sites.

(b) All setback, yard, and similar regulations of the district in which located shall apply to trailers stored or otherwise maintained on the property.

(c) All trailers stored at the site shall be in a condition which will allow their transport to construction sites and use for storage or office purposes. Trailers which have deteriorated to a condition not conducive to transport, storage or office use, as determined by the zoning administrator, shall not be permitted to be stored on the subject site.

(d) All such storage yards shall be screened from view from adjacent public rights-of-way by appropriate opaque privacy fencing and supplementary landscaping.

(e) A site plan shall be required for such uses.

Sec. 24.1-492. Standards for general industrial uses authorized by special use permit in the EO-Economic opportunity district.

(a) General industrial uses permitted by special use permit in the EO district shall be limited to those which involve the manufacture or assembly of specialty items such as pottery, crafts, toys, novelties, food, candy, beverages, decorations or similar items which are then offered for sale on a retail basis at an on-site outlet or other similar type of facility including those oriented primarily to the tourist market.

(b) The board shall find that the proposed activity and location is compatible with and will not adversely impact the overall development character envisioned by the EO district.

DIVISION 16. UTILITIES AND RELATED USES (CATEGORY 17)

Sec. 24.1-493. Standards for all utilities uses.

(a) The proposed location of the specific utility use shall be necessary for the efficient provision of service to customers. Documentation of the public necessity shall be submitted with applications and plans for such uses.

(b) All utility uses shall be conducted so as not to produce hazardous, objectionable, or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire, or explosion.

(c) Utility locations shall not be permitted in such a manner as would preclude or seriously hinder development of commercial and industrial properties except where it is demonstrated to the satisfaction of the zoning administrator that no alternative routing, location, or installation is practical or reasonably possible.

(d) Utility lines shall be parallel to and contiguous with property lines unless excepted by the zoning administrator for good cause shown.

(e) Landscaping and screening appropriate to the use shall be provided in all cases and especially when trees have been removed to accommodate the facility.

Sec. 24.1-494. Standards for radio, television, cellular telephone, and microwave towers.

(a) No zoning certificate for any radio, television, or microwave towers shall be issued until the applicant provides evidence that the Federal Aviation Administration has granted a permit for said tower or that no permit is required.

(b) The entrance to the subject property shall be constructed in accordance with Virginia Department of Transportation standards for commercial entrances.

(c) No communication equipment shall be installed which will in any way interfere with the county emergency

communications system. Should any equipment associated with such facility be found by the county to have such an impact, the owner shall be responsible for the elimination of the interference within twenty-four (24) hours of receipt of notice from the director of public safety or designee.

(d) If at any time the owner of the subject property ceases to use the tower, the owner shall dismantle and remove it within six (6) months after ceasing to use it.

Sec. 24.1-495. Standards pertaining to the storage, handling, transport, and disposal of fly ash, etc.

(a) *Storage and disposal of fly ash*.

(1) The applicant shall prepare a suitable long range plan for the operation and ultimate use and development of the proposed fly ash storage and disposal area. Such plan shall be approved by the zoning administrator prior to the issuance of the use permit.

(2) Storage and disposal sites shall be permitted only in areas classified for heavy industrial use.

(3) Coal or other solid fossil fuels, fly ash, bottom ash, or other particulate by-products shall not be deposited in places or in such a manner as would or could reasonably be expected to allow movement of said materials from the deposit area to other terrain, or into any surface water or groundwater supply.

(4) Such fly ash, bottom ash or other particulate by-products shall be covered daily with the type and amount of soil prescribed by the zoning administrator prior to the issuance of the use permit. The determination of the required depth of cover material shall be based on analysis of the characteristics of the material being stored or deposited, the characteristics of the soils in the storage and disposal area, the characteristics of the material to be used as cover, the anticipated future use of the site as indicated on the approved plan of operation and such other considerations as the board may deem appropriate.

Fill dirt or soil approved by the zoning administrator shall be progressively applied in each storage and disposal area as the final level of the fly ash, bottom ash, or other particulate by-product reaches its prescribed limits, and shall not await the filling of the entire storage and disposal area.

(5) Dust control methods, approved by the zoning administrator as appropriate, shall be implemented at all storage and disposal sites. No owner or other person shall cause, allow or permit any materials to be stored or disposed of without taking precautionary measures, approved by the zoning administrator as appropriate, to prevent particulate matter from becoming airborne or waterborne.

(6) The storage and disposal site shall be designed, constructed, and operated so as to prevent any contamination of groundwater or surface water.

(7) The storage and disposal site may be inspected by the zoning administrator or his designated representatives at any time. The applicant shall provide written authorization for such inspection visits prior to the issuance of the use permit.

(b) *Transport and handling of fly ash*.

(1) Dust control methods, approved by the zoning administrator as appropriate, shall be implemented at all loading and unloading sites, along all haul roads, and in conjunction with any other means of material transport or handling. No owner or other person shall cause, allow, or permit any materials to be handled or transported, or any roads to be used, constructed, altered, repaired or demolished without taking precautionary measures, approved by the zoning administrator as appropriate, to prevent particulate matter from becoming waterborne or airborne.

(2) Each truck, vehicle, or other mechanism used for hauling or transporting coal or other solid fossil fuels, fly ash, bottom ash or other particulate by-products shall be designed, covered and sealed so as to prevent such materials from being deposited or spilled during transport, upon any public or private lands or property, provided, however, that this requirement shall not apply to rail cars used to transport coal or other such fossil fuels to the site of use.

(3) Each and every truck, vehicle, or other mechanism used in the hauling and transportation of coal or other solid fossil fuels, fly ash, bottom ash or other particulate by-product shall be inspected and approved by the zoning administrator or his designated agent prior to its initial use

for such purpose. All such trucks, vehicles, and mechanisms shall display an appropriate seal, issued by the zoning administrator, to indicate its compliance with the county's inspection requirements. Each such truck, vehicle, or mechanism may be inspected by the zoning administrator or his designated agent at any time. Such inspection shall be to determine whether or not such truck, vehicle or mechanism is being maintained and operated so as to prevent the deposit or spilling of any materials during transport. The applicant shall provide written authorization for such inspections prior to the issuance of the use permit. This requirement shall not be deemed to apply to rail cars used to transport coal or other such fossil fuels to the site of use.

(4) Transport, handling, and disposal of fly ash, bottom ash, cover material, and other particulate by-products shall be conducted only during the daylight hours.

(Ord. No. 08-17(R), 3/17/09)

DIVISION 17. COMMON OPEN SPACE AND COMMON IMPROVEMENT REGULATIONS

Sec. 24.1-496. Applicability.

The regulations set forth in this division shall apply to the following features (referred to in this article as "common areas") in any development, except for time share resorts that comply with the requirements of section 24.1-472, where such features are proposed to be held in common ownership by the persons residing in or owning lots in the development:

(a) All lands in common open space, not a part of individual lots, designed for the mutual benefit of persons residing in or owning lots in the development, whether or not such lands are required by the provisions of this chapter; and

(b) All private streets, driveways, parking bays, drainage facilities, lakes, uses, facilities and buildings or portions thereof, as may be provided for the common use, benefit and enjoyment of the occupants of the development, whether or not such improvements are required by the provisions of this chapter.

Sec. 24.1-497. Declaration of covenants and restrictions.

Whenever a development includes common areas as described in section 24.1-496, the developer shall provide for and establish a nonprofit incorporated property owners association, or other legal entity under the laws of Virginia, for the ownership, care and maintenance of all such common areas.

(a) Such association shall be governed by a declaration of covenants and restrictions (referred to in this section as the "declaration") running with the land and shall be composed of all persons having ownership within the development. Such association shall be responsible for the perpetuation, care, and maintenance of all common areas.

(b) The covenants must provide that membership in the association by property owners shall be mandatory, and the association shall have the authority to, and shall assess its members for, such maintenance and improvements as set forth in the instrument creating the association, or as its members deem appropriate.

(c) Voting membership in the association shall, in the case of a residential subdivision, be comprised of a single class, with the owners of lots casting one (1) vote per lot owned. In the case of a non-residential development, voting rights shall be clearly stipulated in the declaration. In no case shall the developer of a residential development control the association beyond ten (10) years of the first lot being conveyed to a person or entity other than the developer.

(d) The declaration shall:

(1) Describe and identify all common areas as to location, size, use and control.

(2) Set forth the method of assessment for the maintenance of the common areas.

(3) Control the availability of the common areas, ensure that land, facilities, and other areas set aside for open space or common use may not be developed or used for an unapproved purpose in the future, and ensure that the common areas are maintained in their intended function in perpetuity unless and until the board by ordinance, authorizes and approves revisions.

(4) Set forth the schedule under which the developer must convey common property and facilities to the association. Such conveyance shall generally occur within thirty (30) days of completion of the facility unless otherwise stipulated in the declaration.

(5) Provide that the association shall not be dissolved nor shall such association dispose of any common areas by sale or otherwise, except to an organization conceived and organized to own and to maintain the common areas, without first offering to convey the same to the county or other appropriate governmental agency in exchange for compensation in an amount not exceeding the appraisal of a mutually acceptable appraiser.

(6) State that all covenant conditions required by this section shall remain in full force and effect unless the board of supervisors shall consent to an amendment of the declaration, or the county attorney shall verify that the requested amendment comports with the requirements of this section.

(e) The declaration shall provide a clearly defined procedure for the county to ensure a remedy in the event the association or any successor organizations, shall at any time after the establishment of the development fail to maintain the common areas in reasonable order and condition in accordance with the plans approved by the County.

(Ord. No. 05-13(R), 5/17/05)

Sec. 24.1-498. Submission requirements.

(a) Before a developer establishes a nonprofit organization as provided in section 24.1-497 above, the following documents shall be submitted to the county:

(1) The articles of incorporation or other documents which will establish or create the nonprofit property owners association.

(2) The proposed declaration of covenants and restrictions.

(3) The proposed bylaws of the association.

(4) An inventory of the lands and capital facilities to be owned and managed by the organization, the anticipated valuation of the capital improvements as of their expected completion, and the anticipated useful life of the major facility components. This information shall be accompanied by a certification statement signed by the developer attesting to its completeness and accuracy. The developer shall ensure that a copy of this inventory is provided to the initial board of directors of the organization so that it will be available to assist the association in fulfilling its obligations under the terms of Section 55-514.1 of the Code of Virginia.

(b) The developer shall submit to the county, along with the required articles of incorporation (or similar documents) and declaration of covenants and restrictions, a certification by an attorney licensed to practice law in the Commonwealth of Virginia that the attorney has reviewed such documents and that they comply with:

(1) the requirements of this article, and identifying where each requirement of section 24.1-497 is addressed;

(2) if applicable, the provisions of the Virginia Property Owners Association Act, section 55-508, et seq., Code of Virginia; and

(3) if applicable, the provisions of the Virginia Subdivided Land Sales Act of 1978, sections 55-336, et seq., Code of Virginia.

(4) any special requirements for covenants as may have been stipulated in rezoning proffers or other zoning or special use permit action approved by the board of supervisors.

The attorney shall also certify that the common areas, when conveyed to the association, will be conveyed without encumbrances or liens, other than easements for public utilities, and such other similar encumbrances as may be specifically identified in the declaration.

(c) The county attorney shall review and approve for consistency with the requirements of this article the certification submitted in conformance with subsection (b) above, and the articles of incorporation (or similar documents) and the declaration of covenants and restrictions. The county attorney's approval shall be evidenced by signature on the documents submitted for recordation.

(d) Any proposed amendments to the articles of incorporation or declaration of covenants and restrictions or actions that would establish encumbrances on the common area shall be submitted to and reviewed by the county attorney to ensure compatibility with the terms of this article. The county attorney's approval shall be evidenced by signature on the documents.

(Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-499. Miscellaneous common area requirements and regulations.

(a) *County not responsible for maintenance.* Nothing contained herein shall be deemed to require the County of York to be responsible for the maintenance of any of the common areas required by this chapter.

(b) *Relationship of residential lots to common area*.

(1) Residential lots adjacent to common areas shall not be platted until the common area and any facilities thereon have been completed and the area has been conveyed to the association or other entity controlling such common ground or will be conveyed contemporaneously with platting.

(2) Alternatively, the zoning administrator may authorize such lots as described in paragraph (1) above to be platted provided that each person or entity to which any of these lots are subsequently conveyed prior to completion and conveyance of the common area execute a statement which clearly discloses to them what common area improvements are to be constructed, the anticipated duration of construction, and the estimated date of completion. The disclosure statement shall be prepared by an attorney licensed to practice law in Virginia and a copy shall be submitted to the county for approval prior to approval of a record plat. Executed disclosure statements shall be recorded contemporaneously with deeds conveying such lots.

(d) *Use of techniques other than property owners associations*. Where the ownership, maintenance and perpetuation of all or a portion of the common areas in a development are to be guaranteed by some method or measure other than the formation of a nonprofit incorporated property owners association, the county attorney and zoning administrator shall ensure that all relevant requirements of section 24.1-497 are substantially satisfied with respect to protecting the future property owners and ensuring the county's interest. Certification by an attorney licensed to practice law in Virginia that all relevant requirements have been satisfied and fully describing how they are met, and which requirements were deemed to not be relevant and why, shall be submitted with site plans or subdivision plats.

ARTICLE V. SITE PLANS

Sec. 24.1-500. Purpose.

(a) The site plan preparation and review procedures established in this article are designed to promote the public health, safety and welfare, to encourage utilization of the most advantageous land development practices and techniques, and to ensure compliance with the comprehensive plan, and all applicable requirements of this, and other, county ordinances.

These regulations are also designed to promote high standards and innovations in the layout, design, and landscaping of new and existing developments, and to ensure that land is used in a manner which is efficient and harmonious with the community and the environment.

(b) Nothing in this article shall be interpreted to require the approval of any development, use, or plan, or any feature thereof which shall be found by the zoning administrator to constitute a danger to public health, safety or general welfare; which shall be determined to be a departure from, or violation of, sound engineering design or standards; or which is in conflict with the comprehensive plan or Chesapeake Bay Preservation Act.

Sec. 24.1-501. Applicability.

(a) Site plans shall be required for any land use or development except:

(1) Single-family detached and individual duplex dwelling units and their customary accessory uses;

(2) Bona fide agricultural operations and the customary accessory uses and structures associated with bona fide agriculture operations.

(3) Filling and grading operations where no impervious structures or improvements will be installed and no clearing undertaken. In such cases, a plan demonstrating compliance with erosion and sediment control and Chesapeake Bay Preservation Areas ordinances and requirements shall be submitted for approval.

(b) No building or land-disturbing permit shall be issued, nor shall any use of a property commence, until a site plan or erosion and sediment control plan has been approved, unless specifically authorized in accordance with the procedures established herein.

(Ord. No. O98-18, 10/7/98; Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-502. Information required on site plans.

(a) *Certification*. Site plans or any portion thereof involving engineering, architecture, landscape architecture or land surveying shall be certified by an engineer, architect, land surveyor or landscape architect licensed to practice in Virginia. No person shall prepare or certify design elements of site plans which are outside the limits of their professional expertise and license.

(b) *Scale*. Site plans shall be prepared to an engineer's scale appropriate to the lot size and intensity of use, and acceptable to the zoning administrator. Sheet size shall be twenty-four inches by thirty-six inches (24" x 36"); however, the zoning administrator may approve different sheet sizes in advance of plan submission.

(c) *Site plan title sheet*. The site plan title sheet shall contain the following information:

(1) Title Block.

a. Project Name.

b. Name, address and telephone number of the firm or individual preparing the site plan.

c. Scale of site plan.

d. Date of preparation of site plan; and dates and descriptions of all revisions.

(2) Location of tract by an insert map at a scale of not more than one inch equaling two thousand feet (1" = 2,000') showing landmarks sufficient to clearly identify the location of the property.

(3) A general information section indicating the number of sheets comprising the site plan, and an index showing the locations of the various sheets.

(4) Rezoning proffers, special use permit conditions, wetlands permits and waivers or variances granted shall be referenced with both application number and resolution or ordinance number noted.

(5) The zoning of the parcel.

(6) Table of statistical information, including:

a. Total area.

b. Area and percentage of total of existing buildings.

c. Area and percentage of total of proposed buildings.

d. Area and percentage of total of lot coverage (amount of impervious cover).

e. Surface area and percentage of total lot area of parking and loading areas.

f. Area of disturbance.

g. Area and percentage of total occupied by landscaped open space.

(7) A blank space four inches by six inches (4" x 6") shall be reserved for the use of the county on the lower right hand corner of the title sheet.

(d) *General information required*.

(1) Seal and signature, on each sheet, by the Virginia registered professional engineer, land surveyor, landscape architect or architect responsible for its preparation. One (1) copy of the plan set shall be submitted with original signature on each sheet.

(2) The owners, present zoning and current use of all abutting or contiguous parcels.

(3) The boundaries of the property by bearings and distances which shall be tied to the county geodetic control network, including both horizontal and vertical control.

(4) Existing topography with a maximum contour interval of two feet (2') except that where existing ground is on a slope of less than two percent (2%), either one-foot (1') contours or spot elevations shall be provided where necessary, but not more than fifty feet (50') apart. Topographic mapping shall identify all significant vegetation, natural features, rock outcroppings, existing cultural features, and shall be supplemented with full verification and location of all underground structures, utilities and public improvements located on or impacting the development of the property.

(5) Soil types as identified in the USDA Soil Conservation Service publication *Soil Survey of James City and York Counties and the City of Williamsburg*, or the Unified Soil Classification System, or by a professional acting within their area of competence and specifically denoting graphically any areas containing soils rated “Moderate” or “Severe” or

which do not have sufficient load bearings for the type of development proposed. The presence or absence of “shrink-swell” and similar soils shall be noted on the face of the plan.

(6) North arrow.

(7) All horizontal dimensions shown on the site plan shall be in feet and decimal fractions of a foot to the closest one-hundredth of a foot (0.01').

(8) Geometric location data for all public rights-of-way, geographic control monuments, common areas, utility centerlines and easements, structures and lot lines.

(9) A development phasing plan if the proposed project is to be constructed in two or more phases.

(10) If the site plan is shown on more than one sheet, match lines shall clearly indicate where the several sheets join and an index shall be shown locating the sheets.

(11) Building restriction lines and required setbacks.

(12) A Natural Resources Inventory of site conditions and environmental features as specified in Chapter 23.2.

(e) *Existing features*.

(1) The location, height, first floor elevation, floor area and use of all existing buildings and structures, and their distance from all property lines and from each other.

(2) All existing streets, utilities, fire hydrants, easements, and watercourses, and their type, names and widths. Recordation information shall be given for all easements and for other features as appropriate. For existing public streets, both right-of-way and pavement widths shall be noted as well as state route numbers and posted speed limits.

(3) Existing natural land features, trees, water features and all proposed changes to these features shall be indicated on a "landscape plan" (see article II, division 5). Land features shall include soil types and limitations. Water features shall include ponds, lakes, streams, wetlands, floodplains, drainage areas and stormwater retention areas.

(4) The location, type, and extent of the following features. In addition, the gross acreage and percentage of the total of the following physical land units shall be tabulated and computed by accurate planimetric methods at the site plan scale:

a. Slopes more than twenty percent (20%) but less than thirty percent (30%)

b. Slopes thirty percent (30%) or greater.

c. 100-year Floodplains.

d. Lands below the four foot (4') contour.

e. Jurisdictional (as defined by U. S. Environmental Protection Agency and confirmed by the U. S. Army Corps of Engineers) wetlands, both tidal and nontidal.

f. Existing water features (bodies of water, drainage channels, perennial and intermittent streams, etc.).

g. Major utility easements or rights-of-way including above ground electric transmission line easements.

h. Site specific location of Chesapeake Bay Resource protection and resource management areas.

i. Natural heritage resource areas identified in the document entitled, *Natural Areas Inventory of the Lower Peninsula of Virginia* and their degree of significance as identified in the same document.

j. Portion or portions of the property located within the Watershed Management and Protection overlay district (WMP).

(5) The location, type and extent of all known or suspected cultural resources, including underground resources. If architectural or archaeological studies have been performed on the site, two (2) copies of each relevant study shall be submitted with the site plan.

(f) *Proposed improvements*.

(1) The location and use of all proposed buildings and structures and their distance from all property lines and from each other.

(2) Proposed building(s) height, first floor elevation and area.

(3) Proposed streets, utilities and easements, their types, names and widths.

(4) Written schedule or data as necessary to demonstrate that the site can accommodate the proposed use, including: area occupied by each use; number of floors, height; and floor area for office, commercial and industrial uses. A development sequencing plan shall be presented with any project which is to be constructed in two (2) or more phases.

(5) Sufficient information to show that the physical improvements associated with the proposed development are compatible with existing or proposed development of record on adjacent properties which may include schematic plans for storm water management, utilities and transportation improvements.

(6) Proposed finished grading by contours to be supplemented by finished spot elevations and sectional design information.

(7) Locations, computations of percent and area of all open spaces; identification of areas for, and improvements to, all recreational facilities, including percent and area.

(8) Location and method of garbage, refuse and recyclables collection.

(9) Location and type of all proposed signage.

(10) Location and design of any retaining walls.

(g) *Landscape requirements*. A landscape plan, in accordance with article II, division 4 shall be provided.

(h) *Erosion and sediment control*. Provisions for the adequate control of erosion, runoff, and sedimentation, as required by chapter 10, *Erosion and Sediment Control*, of this Code, shall be indicated on the site plan. When necessary for clarity, this information shall be indicated on a separate sheet or sheets.

(i) *Streets and parking*.

(1) Location of all off-street parking and loading spaces, handicapped parking spaces, bicycle parking, driveways, existing and proposed vehicular access for the site, entrance types, sidewalks and walkways, size and angle of parking bays and width of aisles and a specific schedule showing the number of parking spaces required by article VI and the number provided.

(2) Typical proposed roadway and parking area pavement cross-sections.

(3) Location of proposed street signs.

(4) Plans and profiles for all street improvements in public rights-of-way, including centerline elevations computed to the nearest one-hundredth of a foot (0.01') at fifty (50) horizontal station intervals and at other locations of geometric importance.

(5) Existing and proposed curb, gutter and sidewalks along all streets contiguous to the project.

(6) Site distances, both horizontal and vertical, at all proposed entrances.

(7) Entrance grades (in percent) noted.

(j) *Drainage*.

(1) Plans in accordance with adopted storm water management standards for the County. Stormwater management criteria consistent with the provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time shall be satisfied.

(2) Plans of contributing drainage areas and the computed limits of the 100-year floodplain, with drainage way cross-sections and water surface elevation plotted on a profile of the pre- and post-development condition.

(3) Plans and profiles detailing the provisions for conveying the drainage to an adequate channel, pipe or stormwater system, indicating:

a. The location, size, type, lining material, slope and grade of ditches;

b. Drainage structures;

c. Pipes including type or class, size, location, slope, invert elevations, length and connections;

d. Verification of receiving channel, pipe or stormwater system adequacy;

e. Best management practices (BMP) and other stormwater management facilities including maintenance requirements, slopes, depths, access, cross-sections and other pertinent details.

(4) Calculations for both pre- and post-development drainage and storm water management specifying the source of the coefficients, time of concentration, and equations utilized and any modifications made thereto.

(5) Floodplain studies when required by the terms of the floodplain management area (FMA) overlay district.

(6) 100-year floodplain limits.

(7) Drainage divides and areas for both pre- and post-development conditions.

(8) 2-, 10-, and 100-year water surface elevations shown for stormwater management ponds.

(k) *Utilities*.

(1) Plans in accordance with adopted water and sewerage facilities standards for the county.

(2) Plans and profiles for all existing and proposed public utilities, including elevation computed to the nearest one-hundredth of a foot (0.01') at fifty (50) horizontal station intervals and at other locations of geometric importance.

(3) Location of all sanitary sewer lines and water lines verifying supply and receiving line adequacy,

and showing all pipe sizes, type and grades.

(4) Location of all existing and proposed fire hydrants; and calculations verifying adequacy of fire flow when required by the director of public safety.

(5) The design, location, height, illumination intensity in footcandles, and luminaire type of all exterior lighting fixtures. The direction of illumination and methods to eliminate glare onto the adjoining properties must also be shown. Where questions or conflicts arise, the "ANSI/IES Recommended Practice for Roadway Lighting" shall prevail.

(l) *Additional information*.

(1) Copies of all permits and determinations obtained from federal and state regulatory agencies and that are necessary for the development to occur as shown on the site plan shall be submitted with the site plan. This shall specifically include, but not be limited to, environmental permits, wetlands determinations, and sewage disposal permits.

(2) Any other additional information deemed necessary by the zoning administrator to render a decision on the proposal shall be provided or shown on the plan as appropriate.

(m) *Format*. Site plans shall generally follow the format depicted in Figure V-1 (See Appendix A).

(n) *Number of copies*. Plan submissions shall be clearly legible, blue or black line folded copies of the site plan and shall be accompanied by the appropriate application form and fee. No plan shall be deemed received until all relevant fees and applications are submitted. In addition, copies/sets of any supplementary reports or calculations (e.g., drainage calculations, traffic impact studies) shall be submitted with the plan submission. The number of copies of site plans and supplementary information/studies required shall be that number deemed sufficient by the zoning administrator to cover distributions to the relevant review departments/agencies and to provide a file copy to be maintained in the Department of Environmental and Development Services and the required number of copies shall be communicated in procedural information made available to prospective applicants by the Department.

(Ord. No. 05-34(R), 12/20/05; Ord. No. 10-24, 12/21/10)

Sec. 24.1-503. Waiver of preparation requirements.

(a) If the zoning administrator determines that one or more of the above submittal requirements is not applicable to the proposed projects, the zoning administrator may waive or modify those requirements and specify the appropriate modification.

No such waiver shall be granted when the proposed site modifications, because of impact on circulation patterns, drainage patterns, public facilities, public safety, or adjacent land uses necessitates the preparation of a plan in complete accordance with the terms of section 24.1-502 in order to serve and protect the public interest. The determination by the zoning administrator to waive or modify site plan requirements shall be made in writing.

(b) In the event detailed plan preparation requirements are waived or modified, the applicant shall remain responsible for provision of a sketch plan of the proposed development site prepared in a manner specified in writing by the zoning administrator.

Sec. 24.1-504. Construction of required public improvements.

(a) Where public improvements are required by this chapter, the zoning administrator may require the applicant or developer to execute with the county an agreement, suitable in form and content to the county attorney, which guarantees the completion of said improvements. (See sample public improvements agreement in Appendix B).

(b) Prior to the issuance of a certificate of zoning compliance or acceptance of any public improvement by the county, the zoning administrator shall be provided with sufficient testing data and certifications to determine that the improvements have been properly constructed as depicted on the approved plan and

to the standards prescribed by the county or other agency accepting the improvement. The cost of all testing and certification shall be borne by the developer.

(c) The county shall be furnished with permanent, blackline, reproducible record drawings of public improvements constructed.

Sec. 24.1-505. Review and approval procedures for site plans.

(a) While not required, developers and property owners are encouraged to present informally conceptual plans to the Department of Environmental and Development Services at a preapplication conference. Applicants should provide preliminary site sketches and plan information prior to the scheduled conference.

(b) The department of environmental and development services shall be responsible for review of the site plan for general completeness and for compliance with established administrative requirements and for coordinating and monitoring the review process. In fulfilling this responsibility, the department may transmit copies of site plans to appropriate departments, agencies, and officials for their review, comment, and recommendations.

(c) The zoning administrator shall be the final plan approving authority. No final action shall be taken until the comments and recommendations of all reviewing agencies, and departments and officials have been received. Except under abnormal circumstances, all reviews shall be completed and the final decision of the zoning administrator rendered within sixty (60) days of the submission of a site plan having all the necessary elements as prescribed in section 24.1-502. In the event a final decision cannot be rendered within sixty (60) days, the applicant may request and shall be given written notice of such delay and the reasons therefor. Where review by one (1) or more state agencies, including but not limited to the health department and/or department of transportation, is necessary, the zoning administrator shall act upon the plan no later than thirty-five (35) days after the receipt of all comments or approvals of such state agency or agencies.

(d) The zoning administrator may act in any of the following manners on site plans:

(1) *Disapproval* - shall indicate that there are significant deficiencies in the plan as submitted and that the ability to correct them is in doubt or that even if the deficiencies were to be corrected, the plan may not be approvable in accordance with section 24-500(b).

(2) *Preliminary approval* - shall indicate that there are deficiencies in the depicted plan which must be corrected prior to final approval being granted; however, such action shall constitute assurance that if the corrections are made in the stipulated manner, final approval will be granted.

(3) *Final approval* - shall indicate that the site plan as depicted, or subject to certain noted conditions, is fully approved and, upon the issuance of all relevant permits, construction activities may commence. A site plan shall be deemed to have received final approval once it has been reviewed and approved by the zoning administrator and the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any performance guarantees.

(e) Upon action by the zoning administrator, the applicant shall be notified in writing of such action and the reasons therefor.

(f) Site plans which have received preliminary approval or have been disapproved by the zoning administrator may be resubmitted for review at no additional fee provided that such resubmission occurs within six (6) months of the date on which notice of preliminary approval or disapproval was transmitted to the applicant and that a written narrative statement describing how each of the preliminary approval conditions or reasons for disapproval and staff recommendations have been addressed on the revised site plan. For site plans having received preliminary approval, only those plan sheets on which revisions have been made need to be resubmitted. For disapproved plans, entire plan sets shall be resubmitted. Revised site plans submitted later than six (6) months shall be reviewed as a new submission and shall be subject to any changes in county ordinances which have occurred in the intervening time period, and shall require the payment of the requisite review fee.

(g) For a resubmitted site plan solely involving a parcel or parcels of commercial real estate (which, for the

purposes of this section shall be deemed to include "industrial"), the zoning administrator shall act on the plan within forty-five (45) days provided, however, that where review by one or more state agencies is necessary, the comments or approvals of such state agency or agencies shall be provided within thirty-five (35) days of their receipt by the zoning administrator. In reviewing such a plan, the zoning administrator shall consider only the deficiencies identified in the review of the initial site plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. Failure to approve or disapprove a resubmitted commercial site plan within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed commercial site plan, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the zoning administrator's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

(h) Upon final approval of the site plan, the applicant shall be responsible for obtaining any necessary entrance permits from the Virginia Department of Transportation. No zoning certificate shall be issued until such permits have been secured.

(i) The zoning administrator may authorize the issuance of land disturbing permits or building permits for footings prior to final approval when the site plan has received preliminary approval and it is determined that the only outstanding issues involve execution of a required development agreement, dedication or abandonment of easements, correction of minor deficiencies, or similar issues which, in the opinion of the zoning administrator, will not affect the location of structures or parking areas as depicted on the site plan. Required perimeter buffer areas and infiltration yards shall be excluded from the authority granted by a land disturbing permit issued prior to final approval of a site plan. Land disturbing permits or zoning certificates for additional phases of construction shall not be issued prior to final approval of the site plan.

(j) Pursuant to Section 15.2-2261, Code of Virginia, final approval of a site plan submitted under the provisions of this article shall expire five (5) years after the date of such approval or, if building permits, or renewals thereof, have been issued for a valid and unexpired site plan, then upon the expiration of those permits. The issuance, and diligent pursuit of work thereunder, of a land disturbing activity permit (LDA permit) authorizing construction of stormwater management infrastructure also shall be sufficient to extend the term of validity of a site plan approval for a period concurrent with the validity of the LDA permit. The application for and approval of minor modifications to an approved site plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity. Notwithstanding the five (5)-year term of validity, nothing shall preclude the application, to the greatest extent possible, of the terms of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act, or the application of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

(k) After final approval of a site plan, the zoning administrator may approve minor adjustments to such plan which comply with the spirit of these and other applicable regulations. Any major revision shall necessitate the resubmission of the plan in accordance with the same procedures followed in the original review. The zoning administrator shall determine what constitutes a minor adjustment or a major revision on a case-by-case basis.

(l) Site improvements and development shall be in strict accordance with the approved site plan and any deviation from such approved plan in the improvement and development of such site shall be deemed a violation of this chapter. Unless specifically authorized by other sections of this article, certificates of zoning compliance and certificates of occupancy shall not be issued for a development until the zoning administrator has certified that the approved site plan has been fully and completely implemented.

(Ord. No. 02-17, 9/3/02; Ord. No. 08-17(R), 3/17/09; Ord. No. 15-12, 9/15/15)

Secs. 24.1-506—24.1-599. Reserved.

ARTICLE VI. OFF-STREET PARKING AND LOADING

Sec. 24.1-600. Applicability.

In any district, all structures erected or enlarged and all uses established or expanded, shall provide off-street parking and loading spaces in accordance with the requirements established herein.

Sec. 24.1-601. General provisions.

(a) All required off-street parking or loading spaces shall be maintained for parking or loading use for as long as the principal use for which such spaces were established shall remain.

(b) No enlargement of a building, structure or use shall reduce the number of existing parking or loading spaces below the minimum number required unless provisions are made elsewhere on the premises for replacement spaces. Additional parking or loading spaces shall be provided to accommodate any additional demand created by such enlargement.

(c) In the event more than one principal use which requires parking or loading space is erected or established on the same premises, parking or loading space shall be provided on the basis of the sum of the required spaces for each use, except in the case of approved planned developments. For the purpose of this section, a shopping center, or a commercial facility containing three (3) or more attached tenant spaces but which does not meet the minimum lot area, setback or other design requirements specified by this chapter for shopping centers, shall be considered a single principal use and, except for theaters or bingo halls located within such centers, parking requirements need not be calculated separately for each establishment therein.

(d) The parking or loading requirements established herein shall be superseded if different requirements are established by the board as a condition of other approvals required by this chapter.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 03-42(R), 12/2/03; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-602. Location of parking.

(a) The off-street parking facilities required by this article shall be located on the same lot or parcel of land or within the same project and in reasonable proximity to the uses or structures that they are intended to serve. For nonresidential uses the zoning administrator may authorize an alternate or cooperative location, subject to the following:

(1) An alternate location is one that provides parking only for the use in question, but on a different lot or parcel.

(2) A cooperative location is defined as one that provides parking for two (2) or more uses, and has combined parking spaces equal to the sum required for the separate uses. The hours of operation and parking demand of such uses shall be considered and where sufficient off-set in parking demand occurs, the zoning administrator may authorize a reduction in the total number of spaces required. It shall be the applicant's responsibility to provide documentation in support of such a reduction.

(3) Such parking spaces shall be conveniently and safely accessible to pedestrians.

(4) All such parking spaces shall be on property zoned for the uses which require the parking spaces or for more intensive uses.

(5) The right to permanently use such property for parking shall be established by deed, easement, lease or similar recorded covenant or agreement, shall be approved as to form and content by the county attorney, and shall be recorded in the clerk's office of the circuit court. (See sample agreements in Appendix B)

(6) Should such off-street parking spaces become unavailable for use at some future time, an equal number of parking spaces shall be constructed and provided on either the primary site

or by another off-site arrangement meeting the requirements of this article. Failure to provide or construct such replacement parking spaces within ninety (90) days from the date on which the use of the previously available off-street spaces was terminated shall be a violation of this chapter.

(b) Unless the zoning administrator approves otherwise for good cause shown, parking for customers shall be located no farther from the main entrance(s) of the use it is to serve than indicated below:

•Automobile - 750' •Handicapped -100'

(c) Location of all or the majority of off-street parking to the side or rear of the principal building is strongly encouraged so as to enhance opportunities for landscaping in front of buildings and complement site architecture.

(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-603. Access to off-street parking.

(a) Every parking space shall afford satisfactory ingress and egress for a motor vehicle without requiring another motor vehicle to be moved, except for the following:

(1) Parking spaces for single family detached, duplex and townhouse dwellings where the parking spaces are located on the same lot as the dwelling unit. This exception shall not extend to required parking spaces for accessory apartments in single family detached dwellings, or for visitor parking in townhouse developments, or for parking required in conjunction with home occupations.

(2) Stacking spaces for dropping off or picking up passengers where the duration of parking is ten (10) minutes or less on average.

(b) Valet parking arrangements may be authorized by the zoning administrator and shall not be subject to this section.

(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-604. Calculating the number of required off-street parking and loading spaces.

(a) In calculating the number of required off-street parking spaces the following rules shall govern:

(1) *Floor area* shall mean the gross floor area of the specific use measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. Unless otherwise specified, floor area shall include associated corridors, utility rooms and storage space.

(2) Parking spaces required on a per employee or per person basis in the standards which follow shall be based on the maximum number of employees or persons on duty or residing, or both, on the premises at any one time, or the maximum occupancy load (based on Building and Fire Codes) of the building or use, whichever is greater. Overlapping demand for parking spaces at shift changes shall be considered in determining these maximum loads.

(3) Where fractional spaces result, the parking or loading spaces required shall be rounded to the nearest whole number.

(4) The parking or loading space requirement for a use not specifically mentioned shall be the same as required for a use of a materially similar nature, as determined by the zoning administrator. A site-specific parking analysis and plan may be required by the zoning administrator to establish parking demands for uses not listed and for which the zoning administrator determines that a materially similar use listing does not exist herein.

(5) Except for shopping centers, or commercial facilities containing three (3) or more attached tenant spaces but which do not meet the minimum lot area, setback or other design

requirements specified by this chapter for shopping centers, where multiple principal uses occupy the same site (either in the same building or in separate buildings) the parking spaces required shall equal the sum of the parking space requirements of the various uses computed separately.

(b) Applicants may have a site- and use-specific parking and/or loading space analysis and plan prepared by a professional qualified to perform such studies for submission to the county for use in lieu of the numerical parking or loading space standards contained in this article. Such an analysis and plan shall be based on parking/loading demands at comparable local uses or establishments taken within six (6) months of the date of submission and shall include comparisons with Institute of Transportation Engineers (ITE) documents and manuals. The analysis and plan may include provisions for a reasonable number of compact car spaces in lieu of full-sized spaces. In addition to the above-noted adjustments, the parking analysis may also propose, and the zoning administrator may approve, the construction of a portion of the required parking for a site in an "overflow" or "peak demand" lot. Such lots may be designed with grid paving systems that allow grass to grow within the paver voids and curbing and wheel stops may be eliminated from this portion of the parking lot.

The professional qualifications of the preparer shall accompany the report. Upon approval by the zoning administrator, the site-specific parking or loading plan shall guide the development for the site, provided, however, that if the plan provides for fewer parking or loading spaces than would otherwise be required, an area sufficient to accommodate one-half (1/2) of the difference shall be reserved for a period of five (5) years and maintained as landscaped open space during that time. At any time during that 5-year period the zoning administrator may, in recognition of five (5) or more documented instances where parking demand for the site has exceeded available supply, issue a written notice to the property owner requiring that reserved open space area be converted to paved parking spaces. A reserved area shall not be required where the site and use-specific parking analysis and plan refers to a use for which a specific or comparable listing is not provided in section 24.1-608.

(c) Business vehicles shall be parked on the site in properly paved and located spaces. The owner of the premises shall be responsible for accommodating business vehicle parking needs without adversely impacting the availability of parking for customers, clients and employees. Adverse impact shall be considered to include instances where, due to inadequate space, business or customer vehicles must park in travel aisles, driveways, unpaved areas or other inappropriate locations as determined by the zoning administrator.

(Ord No. 03-42(R), 12/2/03; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-22(R), 10/20/09)

Sec. 24.1-605. Off-street loading spaces.

(a) Spaces designated for off-street loading shall not be counted toward the required number of off-street parking spaces, except where specifically approved by the zoning administrator in consideration of appropriate documentation that loading space needs will occur when parking space demand is not at its peak.

(b) Off-street loading spaces shall be located so that there is sufficient room for the turning and maneuvering of vehicles using loading spaces.

(c) All off-street loading spaces including aisles and driveways leading to them shall be constructed of concrete, asphalt or other equivalent permanent, dustless surface material.

(d) Off-street loading spaces may be incorporated into the overall design and layout of parking and circulation systems provided that no individual parking spaces will be encroached upon, except as authorized in subsection (a) above, and that vehicles utilizing such loading spaces will not interfere with vehicular circulation on the site or on adjacent public rights-of-way.

(e) Each off-street loading space shall be not less than twelve feet by fifty feet (12' x 50') in dimension with a vertical clearance of not less than fifteen feet (15'). The zoning administrator may authorize a reduction in the length of the required loading space in consideration of the characteristics of the use and appropriate documentation of typical delivery vehicle traffic.

(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-606. Minimum off-street parking and loading requirements.

Off-street parking spaces and loading spaces shall be provided in accordance with the minimum standards set forth in the following tables. These standards prescribe the minimum amount of parking and loading space that must be provided in conjunction with various uses and nothing shall prohibit the installation of more than the required minimums, provided however, that an additional twenty (20) landscape credits shall be provided/earned on the site for every ten (10) spaces in excess of the minimum number. Such additional landscaping shall be installed in the parking lot or around its perimeter.

(a) Category 1 - *Residential and related uses.*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Dwelling: single-family detached & duplex	Two (2) spaces per unit	None.
(2) Dwelling: single-family attached (townhouse & multiplex)	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking	None.
(3) Dwelling: multi-family	One and one-half (□□□□□ spaces per unit; plus One (1) space per three (3) units for visitor parking.	None.
(4) Manufactured Home on individual lot	Two (2) spaces per unit.	None.
(5) Manufactured Home Park	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None.
(6) Rooming, Boarding, Lodging House, Bed and Breakfast, Tourist Home	Two (2) spaces; plus One (1) space per each sleeping room.	None.
(7) Group Home	Three (3) spaces, plus One (1) space per each two (2) beds:	None
(8) Senior Housing – Independent Living Facility	One (1) space per unit; plus one space per six (6) units for visitor parking	None
(9) Senior Housing – Congregate Care Facility, Assisted Living Facility	One (1) space per two (2) units; plus one space per six (6) units for visitors	None

(b) Category 2 – *Agriculture, Animal Keeping and Related Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Plant Nursery w/ retail sales	One (1) space for every 200 square feet of indoor retail and office space; plus One (1) space for every 5,000 square feet Of greenhouse or outdoor display area	none
(2) Plant Nursery – wholesale only	One (1) space for every 350 square feet of office space; plus One (1) space for every 15,000 square feet of greenhouse or outdoor display	none
(3) Animal Hospital / Vet Clinic	One (1) space for every 350 square feet of floor area, excluding kennel space; plus One (1) space per examining room	none
(4) Commercial Stables	One (1) space for every five (5) stalls	none
(5) Farmer's Market	Two (2) spaces, plus One (1) space for every 1,000 square feet	One (1) space

	of outdoor/open air display area	

(c) Category 3 – *Home Occupations* (Refer to Article II – Division 8)

(d) Category 4 – *Community Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Meeting halls, Clubhouses for Private/fraternal/civic clubs	One (1) space for every four 4 seats or for every 60 square feet of assembly area	One (1) space
(2) Recreational / social facilities in conjunction w/ residential development, including community pools	One (1) space for every eight (8) persons capacity of the building or facility based on maximum occupancy limits	None

(e) Category 5 – *Educational Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Day care center, nursery school, child care center	One and one-half (1.5) spaces per classroom or teaching station; plus One (1) stacking space for each five (5) students the facility is licensed to enroll.	none
(2) Schools: Elementary and Middle Schools	Two and one-half (2□□) spaces per classroom.	One (1) space.
(3) High School	One (1) space per classroom or teaching station; plus One (1) space per five (5) students at capacity.	One (1) space
(4) Vocational School	One (1) space per each two (2) students in the maximum projected enrollment capacity; plus One (1) space per classroom or teaching station.	One (1) space

(f) Category 6 - *Institutional Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Church, temple, synagogue or similar place of worship	One (1) per each four (4) fixed seats in main assembly area; or One (1) space per each sixty (60) square feet of assembly area without fixed seats, whichever is greater.	None
(2) Hospital	One (1) space per every two (2) patient beds; plus One (1) space for every 350 square feet of administrative office space	One (1) space; plus one (1) for every loading dock/bay
(3) Nursing Home	One (1) space for every two (2) patient beds	One (1) space
(4) Emergency / First Care Clinic	Two (2) spaces per examining room; Plus One (1) space per 350 square feet of office/administrative space	None

(g) Category 7 – *Public and Semi Public Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Conference Center, Convention hall, auditorium, etc.	One (1) space per each four (4) fixed seats or seating spaces; plus One (1) space per each 60 square feet of assembly area without fixed seats.	None.
(2) Post Office	One (1) space for every 350 square feet of gross floor area	One (1) space
(3) Libraries, museums and similar cultural facilities	One (1) space for each 300 square feet of gross floor area, but in no case less than ten (10) spaces.	None
(4) Government Offices	One (1) space per 350 square feet of gross floor area	None
(5) Parks/recreation facility	As determined based on National Parks and Recreation standards and recommendations for the type of facility	None
(6) Animal Shelter	One (1) space per 350 square feet of floor area, excluding kennels; but not less than five (5) spaces	None

(h) Category 8 – *Temporary Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Model Home Display Parks	Two (2) spaces per model home displayed	None
(2) All other Temporary Uses	Refer to Article 4, Division 7	

(i) Category 9 – *Recreation and Amusement Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Theater - indoor	Stand-alone: One (1) space per four (4) seats. In Shopping Center: One (1) space per eight (8) seats.	None
(2) Bingo Hall	One (1) space for each four (4) fixed seats or for each sixty (60) square feet of open assembly area	None
(3) Bowling Alley	Seven (7) spaces per lane; plus One (1) space per 100 square feet of restaurant and lounge space.	One (1) space
(4) Marinas, dry-stack boat storage facility	One (1) space per five (5) berths; plus One (1) space per 500 square feet of dry boat storage area; plus Two (2) spaces for every house boat mooring space, and, in no event, less than twenty (20) spaces for any marina having an accessory restaurant.	One (1) space.
(5) Country clubs, golf courses	One (1) space per 400 square feet of floor area in meeting rooms, lounges or similar assembly area; plus Five (5) spaces per golf hole	None
(6) Indoor Amusement Centers, Arcades, etc.	One (1) space for every 200 square feet of gross floor area	None
(7) Golf Driving Range	Three (3) spaces; plus One (1) space per tee	None
(8) Recreational or amusement establishments other than those specifically listed above	One (1) space per four (4) seats for fixed-seat facilities; or, One (1) space for every four (4) persons capacity based on the maximum occupancy load for the facility;	One (1) space if food or beverage services are offered

(j) Category 10 – *Commercial / Retail Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Furniture, carpet, and appliance, stores; lumberyard and building materials; home improvement centers	One (1) space per 500 square feet of floor area.	One (1) space; plus One (1) space per loading bay or dock
(2) Convenience store	One (1) space per 200 square feet of gross floor area	One (1) space
(3) All other Category 10 Commercial / Retail Uses	One (1) space per 250 square feet of gross floor area; plus One (1) space for every 500 square feet of open/outdoor display or sales area	One (1) space.

(k) Category 11 – *Business / Professional Service*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Funeral home or mortuary	One (1) space per four (4) seats or seating spaces in the main chapel or parlor;	None
(2) Financial institution with drive-in windows	One (1) space per 350 square feet of floor area; plus Eight (8) stacking spaces for the first drive-in window; plus	None

	Two (2) stacking spaces for each additional window.	
(3) Financial institutions without drive-in windows.	One (1) space per 350 square feet of floor area.	None
(4) Freestanding ATM	Four (4) spaces per machine	None
(4.1) Payday loan establishments	One (1) space per 350 square feet of floor area	None
(4.2) Tattoo parlor	One (1) space per 200 square feet of gross floor area, or two (2) spaces per client chair, whichever is greater	None
(5) Medical or dental clinic/office	Two (2) spaces per examination or treatment room; plus One (1) space per 350 square feet of administrative office space.	None
(6) Offices – business or professional	One (1) space per 350 square feet of floor area but in no case less than three (3) spaces.	One (1) space per building or per building grouping capable of being served by a single space.
(7) Personal Service Establishments (Barber/beauty shops, apparel services, etc.)	One (1) space per 200 square feet of gross floor area, or two (2) spaces per client chair, whichever is greater	None
(8) Motel, hotel, motor lodge	One (1) space per sleeping room or suite for first 100 units; plus • 0.9 spaces per sleeping room or suite for units 101 through 200 • 0.8 spaces per sleeping room or suite for units 201 through 300 • 0.7 spaces per sleeping room or suite for units in excess of 300; plus One space for each 250 square feet of floor area used for meeting rooms and for the preparation, serving or consumption of food or beverage, but not including storage and refrigeration areas.	One (1) space; plus One (1) additional space for on-site restaurant
(9) Timeshare resort	1.3 spaces per unit.	None
(10) Restaurant: Sit Down and Brew Pub	One (1) space per 100 square feet of total gross floor area; NOTE: *Outdoor dining area shall be included in the calculations.*	One (1) space
(11) Restaurant: Fast Food or Drive-In	One and one-half (1 1/2) spaces per 100 square feet of gross floor area inclusive of outside dining area; plus Eleven (11) stacking spaces for the first drive-in window; plus Three (3) stacking spaces for each additional drive-in window.	One (1) space
(12) Restaurant: Drive-Through Only	Five (5) spaces; plus Eighteen (18) stacking spaces for the first drive-in window; plus Three (3) stacking spaces for each additional drive-in window.	One (1) space
(13) Nightclubs, bars, taverns, dance halls	One (1) space for every 60 square feet of floor area, excluding kitchen areas	One (1) space
(14) Commercial reception hall or conference center	One (1) space for every four (4) seats or sixty (60) square feet of assembly	One (1) space

	area	
(15) All other Category 11 uses	One (1) space per 350 square feet of gross floor area	One (1) space, unless waived by the zoning administrator in consideration of the specific nature of the use.

(l) Category 12 – *Motor Vehicle / Transportation*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Automobile service stations, gasoline sales, auto repair garage, auto body/ painting facility	One (1) space per each 500 square feet of enclosed office, sales or service floor area; plus Two (2) spaces per service bay, but in no case less than five (5) spaces.	None
(2) Car Wash	Two (2) spaces, plus Four (4) stacking spaces per bay or stall;	None
(3) Vehicle sales, rental and service establishments (Auto, truck, heavy equipment, boats)	One (1) space per 500 square feet of enclosed office, sales/rental floor area; plus One space per two thousand five hundred (2500) square feet of open sales or rental display lot area; plus Two (2) spaces per service bay;	One (1) space
(4) All other Category 12 Uses	One space per 350 square feet of office/administrative area, plus Two (2) spaces per service bay, Loading or boarding pad or similar facility	None

(m) Category 13 – *Shopping Centers*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Shopping Center, but excluding theaters and bingo halls	Neighborhood Center: Three (3) spaces per 1,000 square feet of gross leasable floor area; Community and Specialty Center: Four (4) spaces per 1,000 square feet of gross leasable floor area.	One (1) space; plus One (1) space per 20,000 square feet of gross leasable floor area. One (1) space; plus One (1) space per 20,000 square feet of gross leasable floor area.

(n) Category 14 – *Wholesaling / Warehousing*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Seafood receiving, packing, storage	One (1) space for every 500 square feet of processing or office area	One space; plus One space per loading bay or dock
(2) Mini-storage warehouses	One (1) space for each twenty (20) cubicles; plus Two (2) spaces for the manager's quarters; plus Two (2) spaces for the office.	None
(3) Warehousing, distributing, or	One (1) space for each 10,000	One space; plus

wholesale trade establishment and all other Category 14 uses	square feet of floor area; plus One (1) space for each 350 square feet of office, sales or similar space; or, subject to appropriate documentation and approval of the zoning administrator, one and one-third (1.3) spaces for every employee on the largest shift.	One (1) space per loading bay or dock

(o) Categories 15, 16 and 17 – *Limited Industrial Uses, General Industrial Uses, and Utilities*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Microbreweries, micro-distilleries, micro-wineries, and micro-cideries	One (1) space for every 350 square feet of office or administrative area; plus One (1) space for every 700 square feet of production or work floor area; plus One (1) space per 100 square feet of gross floor area dedicated to accessory tasting rooms, restaurants (including outdoor dining areas), or retail sales; plus One (1) space for every four (4) seats or sixty (60) square feet of assembly area dedicated to commercial hall use	One (1) space
(2) All Other Uses	One (1) space for every 350 square feet of office or administrative area; plus One (1) space for every 700 square feet of production or work floor area; plus One space for every 5,000 square feet of warehouse/storage area **, or** subject to appropriate documentation and approval of the zoning administrator, one and one-third (1.3) spaces for every employee on the largest shift.	One (1) space for every 20,000 feet

(Ord. No. 03-42(R), 12/2/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 06-19(R), 7/18/06; Ord. No. 06-21, 9/19/06; Ord. No. 14-27, 12/16/14)

Sec. 24.1-607. Off-street parking design standards.

(a) Required off-street parking spaces for single-family detached and duplex dwellings shall be a minimum of nine feet by eighteen feet (9'x 18') in dimension with a driveway which is constructed with an all-weather surface, affording safe and convenient access, and passable by emergency vehicles at all times.

(b) Except as provided in section 24.1-607(e) all other parking spaces intended for use by the general public shall have minimum dimensions of nine feet by eighteen feet (9' x 18'), or ten (10) feet by twenty (20) feet if parallel. Where separate employee spaces are designated on the site and are situated in some manner as to be clearly distinguishable from the remaining spaces, such spaces may be designed with minimum dimensions of eight feet by sixteen feet (8' x 16').

(c) Where parking spaces are arranged along a walkway, median or landscaped island of at least nine (9) feet in width, a one and one-half foot (1.5') overhang credit may be deducted from the required length of the parking space. Where this credit is used, the adjacent landscaped island or walkway shall be increased in width by an equal amount.

(d) All permanent off-street parking areas proposed in conjunction with any development other than single-family detached or duplex dwellings which is subject to the requirements of this chapter shall comply with the following design standards:

(1) Parking areas shall be constructed of concrete, asphalt or other equivalent permanent, dustless surface such as cobblestone, Belgian block, brick, grid pavers, interlocking pavers, or similar surface material.

The above provision notwithstanding, the zoning administrator may approve unpaved or gravel parking areas provided that a specific request, detailing the environmental conditions giving rise to the request, is submitted in writing at the time of plan submission. Said unpaved or gravel parking areas must be an integral part of an overall stormwater management plan for the project.

(2) Parking lots shall be set apart from landscaped areas by a permanent curb or wheel stop. In the event a parking lot is adjacent to a parking lot on another parcel and both lots are served by a joint entrance, the zoning administrator may approve a transfer of the required landscaped strip along the common property line to another location on the site. In such situations, fifty percent (50%) of the area to be transferred shall be added to the landscaping otherwise required in front of the principal building on the site.

(3) Traffic aisles in parking lots shall conform with the following criteria:

Angle of Parking	Traffic Direction	Aisle Width*
parallel	One-Way	12 feet
30-degree °	One-Way	12 feet
45-degree °	One-Way	12 feet
60-degree °	One-Way	18 feet
90-degree °	Two-Way	24 feet
*Minimum width of traffic aisles in parking lots for two-way traffic shall be twenty-four (24) feet. Additional width may be required if needed for access of emergency vehicles.		

(4) Parking lots shall be designed and constructed so that spaces are grouped into bays separated by landscaped traffic islands each of which shall be surrounded by a curb. There shall be no more than fifteen (15) parking spaces in a row without an intervening landscaped island, provided however, that the zoning administrator may approve alternative arrangements where landscaped islands in other parts of the parking lot are enlarged to exceed the minimum dimensions specified below. Such islands and bays shall be designed to provide a clear delineation of circulation patterns, guide vehicular traffic, prevent unsafe diagonal movements through the parking lot, break large expanses of pavement into sub-areas to improve both the appearance and climate of the parking lot, minimize glare and noise, and delineate safe pedestrian walkways. The minimum size of any island shall be one hundred fifty (150) square feet with a minimum width of nine feet (9').

(5) A minimum of seven and one-half percent (7.5%) of the total surface area in parking lots shall be maintained in traffic islands or other interior planting areas within the lot including all traffic islands provided or required herein. Any landscaping within or around the traffic aisles of such parking areas shall be maintained so as to prevent visual obstructions between the height of three feet (3') and six feet (6') where such obstructions could impair vehicular safety.

(6) Landscaping of traffic islands and circulation control improvements, as required above, shall be provided in accordance with article II, division 4 and the following specifications:

a. Existing mature trees and natural vegetation shall be protected and preserved during and after the development process in accordance with the provisions of section 24.1-242 wherever possible, particularly around the perimeter of parking areas.

b. At least fifty percent (50%) of the trees installed in parking lots shall have a minimum caliper of two and one-half inches (2-1/2").

c. Trees within landscaped strips located adjacent to parking spaces shall be placed at least four feet (4') from the face of curbs or wheel stops or at the corners of parking spaces in order to protect plant materials from damage.

d. The specific types and locations of landscaping materials selected for planting shall conform to the provisions of article II, division 4 of this chapter and shall be reasonably dispersed throughout the parking area.

(7) Sidewalks shall be provided to facilitate safe and convenient pedestrian movements within and between such parking areas and the establishments which they serve. Sidewalks shall be designed in accordance with all applicable barrier-free access standards as specified by the Virginia Uniform Statewide Building Code and the Americans with Disabilities Act.

(8) Outdoor lighting shall be installed at appropriate locations to provide illumination for parking areas and pedestrian, bicycle and vehicular circulation routes and especially to establishments which will be patronized during non-daylight hours.

(9) Parking spaces for the physically handicapped, including lift-equipped van-accessible spaces, shall be provided and labeled on the plan in accordance with the numerical and design standards established for the physically handicapped and aged, by the Virginia Uniform Statewide Building Code and as specified in the Americans with Disabilities Act.

(10) All parking lots shall be visually screened from public street rights-of-way by means of landscaping which provides a visual screen of the parking lot throughout the year. Unless otherwise required by this chapter or by the terms of a special use permit, the buildings on the site need not be entirely screened.

(11) Outdoor storage and display shall not be permitted in *required* parking spaces. If outdoor storage and display is to be located in non-required parking areas, such area shall be delineated on the site plan and shall be located so that it does not impede traffic circulation on the site and does not create safety or visibility problems for vehicles and pedestrians using the parking lot.

(e) In the case of parking lots containing twenty (20) spaces or more, the developer may elect to designate up to a maximum of twenty percent (20%) of such spaces for the use of compact cars. The minimum dimensions of such spaces shall be eight feet by sixteen feet (8'x 16') with traffic aisle widths remaining unchanged. Such spaces shall be located so as to be convenient to all major entrances of the proposed establishment and shall be clearly identified through appropriate signage and pavement markings as to their function.

(f) No certificate of zoning compliance or certificate of occupancy may be issued unless the following criteria are fully satisfied with regard to the approved parking plan:

(1) Such plan has been fully implemented on the site, including installation of landscaping, curbs, paving or other surface treatment, painting or striping to delineate individual spaces, installation of necessary regulatory, warning and directional signage, delineation of handicapped spaces and all other aspects required or shown on the approved plan; or

(2) Such plan, because of unanticipated weather conditions, cannot be fully implemented immediately, but has been guaranteed by a postponed improvement agreement between the developer and the county in a form acceptable to the county attorney, and secured by a letter of credit, cash escrow or other instrument acceptable to the county attorney in an amount equal to the remaining cost of such implementation plus a reasonable allowance for estimated administrative costs, inflation and potential damage to existing improvements and vegetation. The zoning administrator shall determine, on a case-by-case basis, the minimum acceptable level of improvement necessary for issuance of a conditional certificate of zoning compliance under these circumstances.

(Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-608. Parking for certain purposes permitted and prohibited.

The following provisions shall apply to the parking or placement of automobiles, trucks, trailers, recreational vehicles, motorcycles, boats, tractors, heavy construction equipment or other types of motorized vehicle or equipment with the intent to offer such vehicles or equipment for sale or rent. For the purposes of this section, the presence of signs, lettering, papers, flyers or other visible advertisement or information on or within the vehicle indicating it to be for sale or rent shall be deemed evidence of such intent.

(a) It shall be unlawful for any person to park or place any such vehicle for sale or rent upon or in any street or street right-of-way.

(b) The owner or occupant of a parcel on which an occupied commercial or industrial structure is located may park an automobile, light-duty truck, recreational vehicle or trailer, boat or cargo trailer on the property for the purpose of selling or offering the vehicle for sale, provided that:

(1) The vehicle is owned by the owner or occupant of the property, or a member of the owner/occupant's immediate family. For the purposes of this section, the term "immediate family" shall be deemed to include natural or legally defined offspring or parents or grandparents of the owner or occupant of the premises.

(2) The vehicle is parked on a paved or graveled parking space on the property, and shall not be parked on grassed or landscaped portions of the property.

(3) Any signs or lettering advertising the vehicle to be "for sale" shall be attached to or applied to the vehicle and shall not exceed six (6) square feet in area.

(4) Not more than two (2) vehicles shall be parked or displayed "for sale" at any time and not more than five (5) vehicles may be parked or displayed "for sale" on any premises within the same calendar year.

(5) In the event the commercial or industrial use occupying the property is authorized to include the on-premises parking or storage of heavy construction equipment, large trucks, and similar vehicles/equipment, the above-noted limitation to "light-duty trucks" shall be waived.

(c) Parking of vehicles or equipment for sale or rent on undeveloped or vacant property, or on property on which the principal structure(s) are unoccupied, shall be prohibited.

(d) Violations of the terms of this section shall be enforceable against the owner of the property and the owner of the vehicle.

(e) The provisions of this section shall not be deemed to prohibit the sale or rental of vehicles or equipment when conducted from a site which has been authorized, pursuant to the terms of this chapter, for the conduct of vehicle or equipment sales/rental as a principal use of the property.

(Ord. No. 06-19(R), 7/18/06)

Secs. 24.1-609--24.1-699. Reserved.

ARTICLE VII. SIGNS

Sec. 24.1-700. Applicability.

No sign shall be erected, altered, expanded, reconstructed, replaced or relocated on any property except in conformance with the provisions of this article and all other applicable ordinances and regulations of the county. Repainting or refacing an existing sign or making minor non-structural repairs shall not require a permit.

Sec. 24.1-701. Sign classifications.

Signs, as defined in article I, shall be classified according to one or more of the following definitions:

Advertising sign. A sign which directs attention to a business, profession, product, service, activity or entertainment which is not conducted, sold or offered on the premises upon which such sign is located.

Banner. A piece of cloth, plastic or other flexible material on which words, letters, figures, colors, designs or symbols are inscribed or affixed for the purposes of advertisement, identification, display or direction and which is suspended for display, typically from buildings or poles.

Community identification sign. A permanent sign which identifies the name of a subdivision, apartment complex, condominium or other type of residential or nonresidential development or neighborhood but not containing separate information pertaining to the builder, developer or financier associated with such property; however, signs identifying rental properties may specify the name of the management firm.

Construction sign. A temporary sign which identifies facilities being actively constructed or altered, the anticipated sale, lease or rental of those facilities, or the identity of the persons or firms engaged in the promotion, financing, design, construction or alteration of such facilities.

Electronic message center (EMC). A sign that utilizes computer-generated messages or some other electronic means of displaying and changing copy. These signs include displays using incandescent lamps, light emitting diodes (LEDs), liquid-crystal display (LCD) fiber optics, light bulbs, plasma display screens or other illumination devices, or a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals that are used to change the messages, intensity of light or colors displayed by such sign. The term shall not include signs on which lights or other illumination devices display only the temperature or time of day in alternating cycles or only motor vehicle fuel prices displayed continuously.

External illumination. Illumination by floodlights, spotlights or other sources which are focused directly on the face of the sign.

Free-standing sign. A sign, supported by one or more columns, uprights or braces, in or upon the ground, and not attached to any building. Free-standing signs include, but are not limited to, pole signs, monument signs, and signs attached to a flat surface such as a fence or wall not a part of a building.

Monument sign. A type of free-standing sign, other than a pole sign, with sides parallel to or nearly parallel to each other, with the supporting structure as wide as or wider than the sign face itself, and with the entire supporting structure in contact with the ground or within twelve inches (12") of the ground.

Identification sign. An on-premises sign which indicates the name, nature, logo, trademark, commodity, entertainment or service sold, offered or manufactured on the premises, and/or other pertinent information about a building, business, development or establishment on the premises.

Internal illumination. Illumination by a light source which is concealed or contained within the sign itself and which shines through a translucent surface, except as defined under “electronic message center”.

Marquee or canopy sign. A sign which is painted on, attached to, or hung from a marquee or canopy which projects from and is totally or partially supported by a building.

Off-Premises directional sign. A sign which is not located on the same premises as the use to which it refers and which is intended to provide information as to the identity and location of a use, but which does not otherwise qualify as an advertising sign.

Off-Premises directional open house sign. A temporary sign which is intended to provide information on the location of a real estate open house, and which is not located on the same premises as the dwelling unit to which it refers. Such signs shall not contain any reference to any individual or firm.

On-Premises directional sign. A sign which is intended to provide directional information for the premises on which it is located. Such sign may pertain to traffic movement, pedestrian movement, parking or loading space, or similar types of information, but shall not consist of advertising matter.

Pennants. Pieces of cloth, plastic or flexible material, generally triangular or rectangular in shape, and which typically are strung together in a series on lines which are hung from poles, between buildings or in other arrangements for the purpose of decoration or attracting attention.

Political sign. A temporary sign which pertains to an issue of public concern or to an issue or candidate in a pending election.

Portable sign. Any sign not permanently attached to a structure or permanently mounted in the ground which can be transported to other locations. Portable signs shall include, but not be limited to, signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels.

Projecting sign. A sign which is attached perpendicularly, or nearly perpendicularly, to a building wall or roof line and which extends from such wall or roof line not more than forty-eight inches (48").

Realty sign. A temporary sign which advertises the sale, lease, rental or display of the lot or building upon which such sign is displayed.

Roof sign. A sign which is an integral part of the building design and is attached to, painted on, or supported by the roof of a building.

Temporary sign. A sign, banner, poster, or advertising display constructed of cloth, plastic, sheet-metal, cardboard, wallboard, plywood or other like materials, intended to be displayed for a limited period of time, and not permanently attached to a building or the ground.

Wall sign. A sign which is painted on or attached parallel to a wall of a building and which extends not more than eighteen inches (18") from such wall.
(Ord. No. 01-20(R), 10/16/01; Ord. No. 03-42(R), 12/2/03; Ord. No. 10-24, 12/21/10; Ord. No. 15-8, 7/21/15)

Sec. 24.1-702. General sign regulations.

(a) Sign area shall be measured within a continuous perimeter enclosing the entire display face of the sign, including background, framing, trim, molding and other borders, but excluding supports and uprights unless the combined width of such supports or uprights exceeds 25% of the width of the sign face being supported or unless such supports of any width are designed as an integral part of the display for the purpose of illustration or attraction (Note: the provisions concerning support measurement shall not apply to *monument* signs). Where a sign consists of two identical parallel faces which are back to back and located not more than twenty-four inches (24") from each other, or in a “V” arrangement where distance between the unattached ends of the “V” is forty-eight (48) inches or less, only one side of such sign shall be used in computing the area. The area of signs with more than two (2) faces or with faces which do not meet the preceding allowances shall be the sum of the areas of all the sign faces. The area of a cylindrical sign shall be computed by multiplying one-half (1/2) the circumference by the height of the sign. Where individual letters, characters or figures are mounted so as to use a building facade as a background, the area of such sign shall be determined by computing the sum of the area within the outer perimeter of each individual character or figures comprising the total message, symbol or advertisement. (See Figure VII-1 in Appendix A.)

(b) The maximum allowable accumulative sign area permitted on any parcel shall be calculated with respect to the principal street frontages of a parcel to which the parcel has direct access. Unless otherwise specified, the maximum allowable accumulative area shall be based on the width of the face of the principal building parallel or nearly so to the street frontages. All permanent signs, unless specifically exempted by the terms of this article, shall be counted in the calculation of maximum accumulative sign area. In no event shall the aggregate wall sign area for a building, or for an individual tenant space if the building consists of multiple attached units, be allowed to exceed 240 square feet.

(c) The height of signs shall be the vertical distance measured from the average finished grade ground elevation of the area surrounding and within ten feet (10') of to the highest point of the sign. The maximum allowable height of signs shall be as specified by the regulations established herein. If the adjoining road surface elevation is more than five (5) feet above the average finished grade where the sign will be located, then the sign height may be increased by one (1) foot for each two (2) feet of elevation difference in excess of five (5), up to a maximum additional height allowance of ten (10) feet.

(d) No sign, unless herein exempted, shall be erected, constructed or altered until a permit has been issued by the county. Fees for sign permits shall be in accordance with the schedule of fees adopted by the board.

(e) Any sign pertaining to a nonconforming business, commercial or industrial use located within a residential district, shall be deemed a nonconforming structure.

(f) No signs shall be permitted in conjunction with any use or activity until such time as site plan approval, or a Zoning Certificate in cases where no site plan is required, has been issued for the subject use or activity.

(g) No sign, other than a sign approved or installed by the Virginia Department of Transportation, shall be located within or over any public right-of-way.

(h) No sign shall be erected within the area encompassed by a sight triangle in accordance with 24.1-220(b) of this chapter.

(i) No sign, whether permanent or temporary, shall be attached to trees, utility poles or other supporting structures, unless specifically authorized by the zoning administrator.

(j) Except in the case of shopping centers, regional medical centers, and corner and through lots, not more than one (1) permanent free-standing sign shall be permitted for each lot or parcel. The minimum setback of any free-standing sign, or any portion thereof, from any property line shall be ten feet (10').

(k) Corner and through lots shall be entitled to one (1) free-standing sign for each road frontage provided, however, that this provision shall not apply along road frontages where restricted access easements are in place.

(l) Except in the IG district, no sign, whether temporary or permanent, shall extend over or above the ridge line of any roof or the top of any parapet wall of a building.

(m) The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways, or parking areas. Light shall not shine or reflect in an offensive manner on or into residential structures or motels. No exposed reflective type bulbs or incandescent lamps shall be used on the exterior surface of any sign in such a manner that will cause offensive glare on adjacent property or create a traffic hazard.

In the case of electronic message center signs, the following additional standards shall apply:

(1) Illuminance intensity of electronic message center signs shall be measured with an illuminance meter set to measure footcandles and accurate to at least two decimals. The

maximum allowable illumination intensity for such signs shall be determined relative to ambient lighting conditions by measuring the difference between an intensity reading taken with the sign illumination turned off and one taken with the sign displaying a white image for a full color-capable electronic message, or a solid message for a single-color electronic message. The difference between the two readings shall not exceed 0.3 footcandles. All measurements shall be taken perpendicular to the face of the sign at the distance determined by the total square footage of the electronic message center sign as set forth in the following table:

SIGN AREA VERSUS MEASUREMENT DISTANCE	
Area of Sign (sq. ft.)	Measurement Distance (ft.)
10	32
15	39
20	45
24	49
32	57
40	64
50	71
64	80
150	122

For signs with an area other than those specifically listed in the table, the measurement distance shall be calculated using the following formula:

$$\text{Measurement Distance} = \sqrt{\text{Area of Sign sqft x 100}}$$

(2) Each permitted electronic message center sign shall be equipped with a sensor or other device that automatically determines the ambient illumination and which is programmed to automatically dim the illumination intensity according to ambient light conditions so as to ensure compliance with the 0.3 footcandle standard.

Prior to the County's final inspection and approval of an electronic message center sign, the applicant shall provide written certification from the sign manufacturer/installer that the sensor is working correctly to keep the sign's illumination intensity within the prescribed brightness limitations set by this ordinance.

(n) A landscaped planting area shall be provided around the base of any free-standing identification sign. The planting area shall contain four (4) times the area of the sign, be a minimum of six feet (6') in width, be protected from vehicular encroachment, and be landscaped with a combination of trees, low-growing shrubs and/or groundcovers (other than grass), including sufficient quantities to earn at least 12 landscape "credits" in addition to any required for the yard in which the sign is located. The landscape treatment shall be designed and maintained to ensure that sight triangle standards are met.

(Ord. No. 03-42(R), 12/2/03; Ord. No. 05-34(R), 12/20/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 15-8, 7/21/15)

Sec. 24.1-703. Permitted signs.

(a) The following table indicates the functional class, structural class, area, height, and type of illumination of signs permitted within each of the zoning districts prescribed by this chapter. All such signs shall be in accordance with the general provisions established in section 24-702.

SECTION 24.1-703. DISTRICT SIGN REGULATIONS

Functional Class	Zoning Districts Where Permitted	Structural Class: Free-standing: Monument	Structural Class: Free-standing: Pole	Structural Class: Marquee/ Canopy, Projecting, Wall	Structural Class: Roof	Illumination Type: Internal	Illumination Type: External	Maximum Free-standing Sign Area (sq. ft.): Monument	Maximum Free-standing Sign Area (sq. ft.): Pole	Maximum Free-standing Sign Height (ft.): Monument	Maximum Free-standing Sign Height (ft.): Pole	Maximum Cumulative Sign Area per lot or parcel exclusive of free standing sign
Identification	RC RR	X	X	X					12	6	6	20 sq. ft.
	NB,[1] WCI	X	X	X		X	X	32	24	6	8	1 sq. ft. per linear foot of principal bldg width
	LB[1]	X	X	X		X	X	40	32	6	10	1.25 sq. ft. per linear foot of principal bldg width
	GB[1] IL	X	X	X		X	X	64	50	10	15	1.5 sq. ft. per linear foot of principal bldg width
	EO[1]	X		X		X	X	64	N/A	10	N/A	1.5 sq. ft. per linear foot of principal bldg width
	IG	X	X	X	X	X	X	64	50	10	20	1.5 sq. ft. per linear foot of principal bldg width
	YVA	X	X	X			X	9	9	6	8	wall sign maximum of 5 s.f.; hanging sign maximum of 6 s.f.
Community Identification	RC, RR, R33, R20, R13, R7	X					X	32	N/A	4	N/A	N/A
	RMF	X					X	24	N/A	6	N/A	N/A
	NB, LB, GB, EO, IL, IG, WCI	X					X	32	N/A	6	N/A	N/A

X = PERMITTED

[1] See Section 24.1-706 for Shopping Center sign standards

(Ord. No. O98-15(R), 9/2/98; Ord. No. O98-18, 10/7/98; Ord. No. 01-20(R), 10/16/01; Ord. No. 03-42(R), 12/2/03; Ord. No. 14-12, 6/17/14)

Sec. 24.1-704. Temporary signs.

The zoning administrator, upon application, may issue permits for the following temporary signs and banners. Such signs shall not count against the normal sign area allowances for the property on which located. All temporary signs and banners shall be subject to the setback and sight-triangle clearance standards applicable to permanent signs. Freestanding temporary signs and banners shall be limited to one (1) per street frontage per individual parcel; building mounted temporary banners shall be limited to one per business establishment/tenant space with its own individual exterior entrance:

(a) Banners or other temporary signs not exceeding forty (40) square feet in area, which promote a special civic, cultural or religious event such as a fair, exposition, play, concert or meeting sponsored by a governmental, charitable, not-for-profit or religious organization. The duration of such permit shall not exceed thirty (30) days.

(aa) Banners or other temporary signs not exceeding forty (40) square feet in area which identify and are associated with a temporary business activity involving the sale of seasonal commodities as permitted pursuant to sections 24.1.-306 and 24.1-440 of this chapter and which may be displayed for the duration of the seasonal commodities sales operation.

(b) Banners or other temporary signs not exceeding forty (40) square feet in area, and six (6) feet in height if freestanding, when used in conjunction with the opening of a new business or an establishment going out of business in any commercial or industrial district or a legally existing nonconforming business in any other district. The duration of such permit shall not exceed sixty (60) days and only one such sign, either freestanding or building mounted, shall be permitted. "Grand-Opening" temporary signage shall be permitted only within the one-year period after the actual business opening occurs. The completion of a major interior or exterior remodeling or a change in ownership for a pre-existing business shall be deemed eligible for temporary "grand-opening" banners within the one-year period after the renovation or ownership change.

(bb) In addition to the above, businesses may install temporary banners or signs, not exceeding forty (40) square feet in area, and six (6) feet in height if freestanding, for the following purposes:

(1) announcing employment opportunities (e.g., "Now Hiring" or "Help Wanted");

(2) announcing "Now Enrolling" in the case of a childcare or daycare center:

(3) announcing a sales event such as a "Clearance Sale" or "Truckload Sale", an anniversary of the business operation (e.g., "25th Year in Business"), or other business-related messages, including those that refer to a specific item, product or brand that is offered by the business;

(4) identifying/advertising a temporary business activity as permitted under Section 24.1-306 – Category 8 – Temporary Uses.

Such temporary signs or banners must be on the site of such business. Only one (1) building-mounted or one (1) freestanding sign shall be permitted per street frontage. Such sign may be displayed for a maximum period of 120 days in any single 12-month period. The 120-days maximum display allowance may be used as 120 consecutive days or may be broken into as many as six (6) separate time periods during the course of a 12-month period. The permit application for such sign shall specify the time period(s) during which the sign will be displayed.

In the case of a property occupied by a building or buildings with multiple tenant spaces (e.g., a strip shopping center), each business establishment/tenant space with its own individual exterior entrance shall be eligible for its own temporary building-mounted sign or banner, which shall be subject to the 120-days per 12-month period allowance. The property also shall be eligible for one (1) freestanding temporary sign or banner per street frontage, provided however that such freestanding sign may not be displayed at any time during which building-mounted signs or banners allowed by this subsection are being displayed by businesses within the center.

Temporary business signs as allowed above and associated with properties having access to and from a road undergoing reconstruction may be displayed for the duration of the road construction project and shall not be limited to the 120-day display period set forth in this subsection. Properties eligible for this allowance shall be those located within the official project corridor as defined by and identified on the approved project plans. The project duration shall be considered to be the time between the actual commencement of land or pavement disturbing construction activity and the re-opening of all lanes of travel in their state of final completion.

(c) Temporary portable signs, not exceeding thirty-two (32) square feet in area or one (1) per parcel, which are intended to identify or display information pertaining to an establishment for which permanent free-standing signage is on order as evidenced by presentation of a copy of an executed order form for such permanent signage to the Zoning Administrator. Such permit shall expire and the portable sign shall be removed upon erection of the permanent sign or 120 days whichever shall occur first. In addition, temporary banners or sign sleeves, neither of which exceed normal sign area allowances, may be used when permanent signage is on order, as evidenced in the manner described above or when in the opinion of the zoning administrator other temporary business circumstances, such as relocation due to fire or disaster, warrant such use and the size of the temporary banner/sleeve does not exceed normally permitted sign area allowances. Such signage may be authorized for terms of up to 120 days, and may be renewed for good cause shown.

The 120-day maximum display limit shall not apply in the case of properties having access to and from a road undergoing reconstruction, and instead the allowable display period shall be the duration of the road construction project. Properties eligible for this allowance shall be those located within the official project corridor as defined by and identified on the approved project plans. The project duration shall be considered to be the time between the actual commencement of land or pavement disturbing construction activity and the re-opening of all lanes of travel in their state of final completion.

(d) Temporary signs and banners when used to announce the grand opening and initiation of sales or leasing of lots and/or dwelling units within a newly developing residential project having at least ten (10) lots or units. The cumulative area of all such signs and banners erected for any single residential project shall not exceed forty (40) square feet. Signs and banners shall not be illuminated. The duration of such permit shall not exceed 120 days.

(e) Temporary signs and banners when used to announce special events such as new home shows being conducted within a residential subdivision or development. The cumulative area of all such signs and banners erected for any single event shall not exceed forty (40) square feet. Signs and banners shall not be illuminated. Such signs shall not be erected more than fourteen (14) days prior to the event and shall be removed within seven (7) days following the closing of the event; provided, however, that no sign or banner shall be permitted to remain in place for any event for more than thirty (30) days between the first appearance and its removal.

(f) With the approval of the Virginia Department of Transportation, the zoning administrator may authorize banners to be suspended above a public road right-of-way for a period not to exceed seven (7) days or the duration of the event being announced or promoted plus three (3) days, whichever shall be greater.

(Ord. No. O98-18, 10/7/98; Ord. No. 01-20(R), 10/16/01; Ord. No. 03-42(R), 12/2/03; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-24, 12/21/10; Ord. No. O13-5, 4/16/13; Ord. No. 14-16, 9/16/14; Ord. No. 15-6, 6/16/2015)

Sec. 24.1-704.1. Sidewalk signs.

The zoning administrator, upon application, may issue permits for sidewalk signs subject to the following standards and conditions. Such signs shall not count against the normal sign area allowances for the property on which located.

(a) One non-illuminated sidewalk sign is allowed per business establishment having an exterior customer/client entrance. In the event a structure houses multiple businesses sharing a common customer entrance, two sidewalk signs may be authorized provided that the two signs are no closer than 30 feet to one another. Nothing shall prevent the identification of more than one of the businesses located on the premises on a single sign.

(b) The placement of sidewalk signs shall be limited to a location within fifteen feet (15') of the front (i.e., between the imaginary extension of the side walls of the building) of the establishment to which it refers and not more than thirty feet (30') from the main customer/client entrance of the establishment.

(c) Sign area shall not exceed 6 square feet (e.g., each face of a double-sided or A-frame sign). Maximum height shall be 4 feet. Maximum width shall be 2'6".

(d) Sidewalk signs shall be constructed of durable materials, sufficient to withstand inclement weather, as well as color fading due to sunlight. Sidewalk signs shall not be constructed of glass.

(e) The sign face may include permanent/fixed copy (e.g., painted on the surface) and changeable copy. Acceptable materials for changeable copy sidewalk signs may include chalk, dry-erase, removable letters, or other similar types of boards on which the messages can be easily and frequently changed.

(f) The sign shall be of sufficient weight to prevent it from becoming a hazard in windy conditions or from being overturned by contact. Weights, if required, must be incorporated into the sign design and construction. The use of sandbags, bricks or similar items to add weight to the sign is not

allowed.

(g) No temporary posters, letters, flyers, balloons, pennants, flags, or other attention-getting devices may be attached to the sign. Mobile or moving sign copy or sign parts shall not be permitted.

(h) The sign placement shall not prevent the sidewalk from being accessible as required by the Americans with Disabilities Act, nor shall it cause the unobstructed, clear-path of the walkway to be less than four feet (4') in width.

(i) No sign shall be located within or closer than two feet (2') from curbs, driveways, parking lots or any other vehicular circulation or parking surfaces. No such sign shall be located in conflict with sight distance/sight triangle standards.

(j) No such sign shall be permitted within a public road right-of-way.

(k) The sign must be removed from the sidewalk or display location during times when the identified business establishment is closed. Storage during non-business hours shall be indoors.

(l) When such sign is to be located on a sidewalk or walkway not under the sole control of the business owner, such as on a walkway within the common area of a multi-tenant shopping center or retail complex, the application for approval shall be accompanied by documentation indicating that the sidewalk owner has approved the use, design and placement of the sign.

(Ord. No. O13-5, 4/16/13)

Sec. 24.1-704.2. Political Signs

Political signs shall be permitted subject to the following provisions and to the general regulations set out in Section 24.1-702, except as specifically noted, and provided further that no permits shall be required.

(a) In commercial and industrial districts, one sign, not exceeding forty (40) square feet, may be erected/installed on property serving as a political headquarters. Such sign shall be installed no earlier than sixty (60) days prior to the election, canvass, or primary to which it pertains and shall be removed within seven (7) days following the election, canvass or primary.

(b) Non-illuminated political signs and posters may be placed on individual properties in accordance with the following provisions and with the owner's permission:

1) Signs or posters not exceeding six (6) square feet each in area and not limited as to the number of such signs;

2) One sign or poster not exceeding forty (40) square feet may be installed on each street frontage of any property.

Such signs shall be exempt from the normal ten-foot (10') minimum setback requirement for signs and shall be removed within seven (7) days following the election, canvass or primary to which they pertain.

(Ord. No. 14-16, 9/16/14)

Sec. 24.1-705. Special sign regulations applicable to shopping centers.

Shopping centers, as defined in section 24.1-104, shall be subject to the following sign regulations:

(a) All signs shall comply with the general provisions specified in section 24.1-702 unless otherwise specified herein.

(b) The following provisions shall apply to shopping center free-standing signs, notwithstanding the district in which located:

(1) One (1) free-standing sign shall be permitted for each street frontage.

(2) The maximum area of any one (1) free-standing sign shall be one hundred fifty (150) square

feet.

(3) The maximum cumulative free-standing sign area per shopping center shall be two hundred (200) square feet.

(c) Each individual tenant within a shopping center shall be permitted one (1) marquee or canopy sign provided that such sign shall not exceed a maximum area of three (3) square feet and shall have a minimum ground clearance to the bottom of the sign of not less than eight (8) feet.

(d) In addition to the marquee or canopy sign, wall signs shall be permitted provided that the cumulative area of such signs, including the marquee sign, shall not exceed the maximum cumulative sign area allowable in the district in which located, as specified in section 24.1-703.

(e) Individual free-standing signs for individual shopping center tenants shall not be permitted. For the purposes of this section, lawfully subdivided outparcels which have been depicted on the approved shopping center site plan shall be considered as separate parcels and may be signed as such.

(f) In addition to the signage opportunities set forth above, a regional shopping center containing in excess of 350,000 square feet of tenant space and which is located on a parcel having at least 1,500 feet of frontage on an Interstate System highway and having direct access to a Primary System highway intersecting the interstate shall be entitled to the following special signage allowance:

(1) Subject to compliance with the terms of Section 33.1-370 of the Code of Virginia, the shopping center may install one (1) freestanding monument-style sign identifying the name of the center and such tenants as desired along its Interstate System frontage. One (1) such sign may also be installed along the intersecting Primary System frontage.

(2) Such signs shall not exceed 600 square feet in area and 45 feet in height and shall be exempt from any sign area or sign height limitations applicable to the regional shopping center pursuant to the TCM – Tourist Corridor Management regulations established in Section 24.1-375 of this chapter.

(3) Such signs shall not count against or negate the signage opportunities otherwise available to the center along any other public street/highway frontages of the shopping center parcel.

(Ord. No. 03-42(R), 12/2/03; Ord. No. 10-24, 12/21/10; Ord. No. 14-7, 4/15/14)

Sec. 24.1-705.1. Special sign regulations applicable to regional medical centers.

Regional medical centers, as defined in section 24.1-104, shall be permitted to erect signage in accordance with the following provisions and all general provisions specified in section 24.1-702:

(a) One (1) freestanding monument sign shall be permitted at the primary entrance to the medical center. Such sign shall not exceed one hundred fifty (150) square feet in area, or fifteen feet (15') in height.

(b) Additional freestanding monument signs shall be permitted at secondary entrances to the medical center provided that no such sign shall exceed thirty-two (32) square feet in area or six (6) feet in height and provided further that the maximum cumulative sign area for all entrances to the medical center shall not exceed two hundred (200) square feet.

(Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-706. Off-premises directional signs.

(a) The zoning administrator may authorize, by permit, the installation of off-premises directional signs for churches, civic organizations, governmental functions, hospital-based emergency centers and similar activities or establishments, subject to the following findings and conditions:

(1) The location of the use to which the sign pertains prevents adequate identification by such

signs as are normally permitted.

(2) The function of such signs shall be limited to directional or identification purposes.

(3) The location of such signs shall be consistent with the uses existing or permitted on the site of such sign. A written authorization from the owner of the property on which such sign is proposed to be located or a recorded easement permitting the placement of the sign shall be submitted to the zoning administrator at the time of application for necessary permits.

(4) Such signs shall be limited to a maximum area of eight (8) square feet and a maximum height of six (6) feet and shall comply with all other applicable provisions of this article. Not more than three (3) such signs shall be permitted for any single use. All off-premises directional signs, except those permitted under section 24.1-706(b) below, shall have a background color of green, blue or brown with white letters.

(b) Off-premises directional open house signs may be erected in any zoning district when in accordance with the following conditions:

(1) The function of such signs shall be limited to directional purposes, as opposed to advertisement of an individual realtor or realty firm. No specific realtor or realty firm name(s) shall appear on such signs provided, however, that the registered trademark of the National Association of Realtors and the equal housing opportunity logo shall be permitted.

(2) Such signs shall refer only to real estate open houses whose purpose is to sell, lease, or rent residential property.

(3) No such sign shall exceed three (3) square feet in area and three feet (3') in height.

(4) Such signs shall be located only at intersections where a turning movement is indicated.

(5) No more than two (2) such signs shall be located at any one intersection, nor shall such signs at the same intersection point in the same direction.

(6) Such signs shall be displayed only when the residential unit is open for public viewing.

(7) Such signs shall be placed only on privately owned property and only with the express consent of the owner of said property.

(8) The provisions of Section 24.1-702(j) notwithstanding, such signs shall not be subject to the minimum ten-foot (10') setback from property lines when placed on private property.

(Ord. No. 03-42(R), 12/2/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-707. Exempt signs.

The following signs may be erected, altered or maintained in any zoning district when in accordance with the general provisions established in section 24.1-702, except as noted, and provided further, that permits shall not be required unless specifically noted.

(a) Signs erected and maintained pursuant to and in discharge of any federal, state or county governmental function, or as may be required by law, ordinance or governmental regulation including official traffic signs and signals, warning devices and other similar signs.

(b) Memorial signs or tablets, cornerstones or names of buildings when cut into masonry or when constructed of bronze or other noncombustible material, but not to exceed six (6) square feet in area.

(c) Non-illuminated construction signs, not exceeding thirty-two (32) square feet in area and six feet (6') in height and limited to three signs for each street frontage. No such signs shall be permitted unless a building permit has been issued or unless a site plan for the proposed development has been submitted to the county for official review. Such signs shall be removed at the completion of

construction.

(d) Non-illuminated realty signs, not exceeding six (6) square feet in area and four feet (4') in height in all single family residential districts, and thirty-two (32) square feet and six (6) feet in height in all multi-family, commercial and industrial zoning districts, and limited to one sign for each street frontage, and only when displayed on the premises to which such sign refers. Such signs shall be exempt from the 10-foot minimum setback requirement.

(e) Non-illuminated signs identifying official state automobile inspection stations and the inspection number which is then due, provided that such signs shall not exceed sixteen (16) square feet in area and shall be limited to one sign for each street frontage. "A-frame" designs shall be considered as a single sign for the purposes of this section.

(f) Bulletin boards for churches or other permanent places of worship, or for public buildings, when located on the same premises as the building to which they refer, and provided that such signs shall not exceed twelve (12) square feet in area and six feet (6') in height. If such sign is a free-standing or illuminated sign, a permit shall be secured.

(g) Non-illuminated signs and posters of less than four (4) square feet in area advertising or providing directions to a residential, civic or community operated yard or garage sale or an estate sale or auction. Such signs shall be exempt from the 10-foot minimum setback requirement.

(h) Signs attached to machinery or equipment which is necessary or customary to a business including, but not limited to, devices such as gasoline pumps, vending machines, ice machines, etc., provided that such signs refer exclusively to products or services offered on the premises.

(i) On-premises directional signs, not exceeding three (3) square feet in area and three feet (3') in height and not containing any advertising material or discernible business logo. A permit shall be secured for any illuminated signs. Such signs shall be exempt from the 10-foot minimum setback requirement.

(j) Signs displayed in the windows of establishments permitted in commercial and industrial districts provided, however, that such signs shall not occupy more than twenty-five percent (25%) of the total area of the window in which they are displayed and shall not be legible from any public street.

k) Menu boards which are either free-standing or wall signs providing information on food and beverages offered for drive-in sales on the premises, provided that such signs and any business logos thereon are not legible from any public right-of-way and do not exceed an aggregate or individual area of thirty-two (32) square feet per drive-thru lane. A permit shall be secured.

(l) Signs or scoreboards within a ball park or other similar public or private recreational use which are oriented to the facility and are not designed or intended to be legible from a public street or adjacent properties.

(m) Flags, emblems or insignia of the United States, the Commonwealth of Virginia, York County, religious groups, civic organizations, service clubs and similar organizations, groups, agencies, etc. One (1) corporate logo emblem flag per parcel shall be permitted; provided however, that such sign shall count toward the maximum allowable sign area for the subject parcel. Flagpoles shall conform with the height regulations of the district in which located. Placement of flags in such quantities and locations as to be for attention-getting/advertising purposes, in the opinion of the zoning administrator, shall not be considered exempt under this section.

(n) Non-illuminated signs warning trespassers or announcing property as posted, not to exceed four (4) square feet per sign. Such signs may be located on trees or, with the permission of the owner, utility poles. Such signs shall be exempt from the 10-foot minimum setback requirement.

(o) On-premises safety and directional signs within a business or industrial district which are not visible from a public right-of-way or abutting property lines. A permit shall be secured for any free-standing or illuminated sign.

(p) Special notice placards, not to exceed a total of four (4) square feet in area for all such placards of

any establishment, attached to a building or to a free-standing sign indicating credit cards which are accepted on the premises, group affiliations of which the business is a member, or clubs or groups which utilize, recommend, inspect or approve the business for use by its members. A permit shall be secured for any illuminated signs.

(q) Identification and directional boards, which are either free-standing or wall signs, designed as an outdoor means of providing information concerning the name and location of individual establishments or offices within an office, retail or industrial complex, provided that such signs are not legible from any public right-of-way and do not exceed thirty-two (32) square feet and provided further that the location of such signs shall be limited to major vehicular or pedestrian intersections, decision points and/or major sub-areas of such complex. A permit shall be secured for any free-standing or illuminated sign.

(r) Identification signs for churches and schools, regardless of the district in which located, shall be permitted provided that they are of a ground mounted monument type and do not exceed forty (40) square feet in area and six (6) feet in height. A permit shall be obtained.

(Ord. No. O98-18, 10/7/98; Ord. No. 03-42(R), 12/2/03; Ord. No. 05-34(R), 12/20/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 14-16, 9/16/14)

Sec. 24.1-708. Special standards for community, business/office/industrial park identification signs.

(a) Residential community or business, office or industrial park identification signs shall be erected in accordance with section 24.1-703 and the following standards:

(1) Such signs must be located within the subdivision, apartment complex or other residential development being identified. The sign shall be located on one (1) of the lots within said development or on property which is owned and controlled in common by the owners of individual lots and units within the development and an affidavit affirming the responsibility for maintenance of the sign shall be filed with the application for a permit.

(2) A permit as required by section 24.1-702 shall be secured;

(3) The sign shall be of masonry, wood or other material construction, but not plastic or similar material, so as to be permanent in nature;

(4) Any external illumination shall be by lighting fixtures placed at ground level and directed in such a manner as to prevent flare onto adjacent roadways or properties.

(5) When the development includes a symmetrical design feature on both sides of the entrance street or driveway such as a decorative wall or fence, identical community identification signs may be mounted on the decorative feature on both sides of the street/drive.

(Ord. No. 03-42(R), 12/2/03; Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-709. Abandoned signs.

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. In the event a nonconforming sign refers to a business that has not been in operation for a period of at least two (2) years, such sign shall be considered abandoned and shall be considered to be in violation of this chapter. After reasonable efforts to provide notice to the property owner of the need to remove the violation, and failure of the property owner to do so, the zoning administrator may cause the abandoned sign to be removed at the owner's expense.

(Ord. No. 03-31, 8/5/03; Ord. No. 03-42(R), 12/2/03)

Sec. 24.1-710. Prohibited signs.

Unless specifically stated otherwise, the following signs shall not be permitted in the county:

(a) Signs with moving, revolving or rotating parts, optical illusions of movement, mechanical movement of any description, or other apparent movement achieved by electrical, electronic, mechanical or natural means, but not including time, temperature and date signs, and traditional barber poles.

(b) Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color, or which change the message or image more frequently than once every 24 hours.

The above provisions notwithstanding, electronic message center signs (changeable message or image signs) which change more frequently than once every 24 hours shall be permitted on the freestanding signage otherwise allowed for places of worship and for community, regional, or specialty shopping centers, as defined in this chapter, provided that:

(1) each message or image shall remain fixed and unchanged for a minimum period of eight (8) seconds;

(2) there is no appearance of movement, scrolling, dissolving or fading in which images or messages "move" or in which part of one message or image appears simultaneously with any part of a second or subsequent one;

(3) the maximum illumination intensity shall not exceed the limits prescribed in Section 24.1-702(m) and any illumination intensity, contrast or coloration of the message text or image shall remain constant for each display period;

(4) when such sign is installed at a place of worship located in a Residential zoning district it shall be designed and operated so that between dusk and dawn the background field for any variable text message on the sign shall be black and the lights constituting the message text or any image shall be amber or orange; and

(5) provided further, that this special signage opportunity shall not be permitted for any place of worship or shopping center located in a TCM-Tourist Corridor Management Overlay district.

Message or image changes on any other changeable message/image signs shall occur no more frequently than once every 24 hours.

(c) Moored balloons or other floating signs that are tethered to a structure or the ground.

(d) Pennants.

(e) Portable signs, except those used in the specific instances authorized by permit by the terms of section 24.1-704. This provision shall not be construed to prohibit signs of reasonable size and proportion as determined by the zoning administrator, painted on or attached to automobiles, trucks, buses, trailers or other vehicles which are used in the normal course of business. It shall, however, be construed to prohibit the parking of vehicles or trailers on which signs are hung, or otherwise attached, when such parking is for display purposes intended to circumvent the provisions of this chapter. The removal of wheels and chassis assemblies from a portable message board sign with the intent of mounting it on posts shall not be sufficient to cause the sign to be permitted as a freestanding or wall sign.

(f) Any sign which by reason of position, shape or color may interfere with, be confused with, or obstruct the view of any traffic sign, signal or device.

(g) Advertising signs.

(Ord. No. 03-42(R), 12/2/03; Ord. No. 05-13(R), 5/17/05; Ord. No. 09-22(R), 10/20/09; Ord. No. 14-1(R), 4/15/14; Ord. No. 15-8, 7/21/15)

Sec. 24.1-711. Maintenance and removal of signs.

All signs shall be maintained in good condition and appearance and shall be removed from the premises when they can no longer be repaired.

Sec. 24.1-712. Standards for increases in sign area and height.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements:

(a) increases in sign area and sign height when unusual topography, vegetation, parcel shape, or the distance from the road right-of-way would impose substantial hardship by making a sign otherwise permitted by the terms of this chapter ineffective and unreadable from vehicles on adjoining (i.e., abutting) roadways; or

(b) an increase in the number of allowable signs in the case of shopping centers or other large commercial uses having more than 100,000 square feet of retail floor area, and having in excess of 1,000 feet of frontage and more than one entrance drive on the same street frontage, when it is determined that distance, topography, or other factors prevent adequate and timely recognition by motorists of the available entrance points to such shopping center or commercial use.

In authorizing signs in either of the above situations, the board shall limit the area, height, and location of such signs to that which, in its opinion, is reasonably in keeping with the provisions of Article VII.

(Ord. No. O98-15(R), 9/2/98; Ord. No. 03-42(R), 12/2/03; Ord. No. 11-15(R), 11/16/11)

Secs. 24.1-713—24.1-799. Reserved.

ARTICLE VIII. NONCONFORMING USES

Sec. 24.1-800. Continuation of existing uses.

If, at the time of the adoption of this chapter or any amendment thereto, any use, lot, or structure is being used in a manner or for a purpose which does not conform to the regulations of the district in which it is located, but which was legal at the time of its creation and which is not prohibited by any other law or ordinance, the use, lot, or structure may be continued, without regard to any change of occupancy or ownership. Such use, lot, or structure shall be deemed a nonconforming use and shall be subject to the provisions of this article.
(Ord. No. 02-16, 9/17/02)

Sec. 24.1-801. Nonconforming uses.

(a) *Enlargement or extension*. A nonconforming use shall not be enlarged, extended, reconstructed, or structurally altered except in conformance with the provisions of this section.

(1) Structural additions, either attached or detached, may be made to single-family detached residences located in non-residential districts provided that such additions comply with all applicable setback and yard requirements for the district in which located and that the minimum open space provisions for said district are observed.

(2) No other nonconforming uses shall be enlarged or extended in any way except and unless the board shall authorize such enlargement or expansion through the issuance of a special exception which shall be processed and administered in the same way as are special use permits, provided, however, in addition to the standards set out in article I, the board shall consider whether the character of the existing use will be preserved in the event of the proposed enlargement. All owners of property located within five hundred feet (500') of the subject parcel, whether abutting or not, shall be sent notice of public hearings pertaining to the request. In no case shall the nonconforming use be permitted to expand by more than fifty percent (50%) of its size measured in building floor area on the date that it became nonconforming.

(b) *Discontinuance.* In the event a nonconforming use ceases for any reason for a period of more than two (2) consecutive years, such nonconforming use shall not be reestablished. For purposes of this section, the term "discontinued" shall mean a cessation of a use or of any portion of a use, regardless of any intent by the user or owner to reestablish the use in the future. Discontinuance shall not be synonymous with abandonment and this shall be construed to incorporate both time and place, such that if the nonconforming use ceases in a particular structure or location for more than two (2) years even though it continues elsewhere on the same lot or parcel, the nonconforming use may not be reestablished in the structure or location where it was discontinued.

(c) *Damage or destruction.* In the event a nonconforming use, or the structure(s) associated with that nonconforming use, is damaged or destroyed by a natural disaster or other cause beyond the control of the owner, such use and associated structure(s) may be reestablished or reconstructed within two (2) years of the date of such damage or destruction provided, however, that such reestablishment or reconstruction shall not have the effect of enlarging or extending the nonconforming use or associated structure(s), unless in conformance with the provisions of section 24.1-801(a) above. However, if the nonconforming use is in an area under a federal disaster declaration and the damage or destruction is a direct result of the conditions that gave rise to the declaration, then the allowable timeframe for reestablishment or reconstruction shall be four (4) years. For a use which is dependent upon occupancy of a destroyed or damaged structure, the use shall be deemed to be reestablished upon the issuance of a building permit for the structure, provided the completion of the structure is thereafter diligently pursued. In the event the use does not involve a structure, the actual operation and conduct of the use shall be the measure of reestablishment. After two (2) years, or four (4) years if applicable, of the damage or destruction, all nonconforming use rights shall be lost.

Reconstruction of structures pursuant to the above provisions shall be in compliance with the terms of the Virginia Uniform Statewide Building Code and all applicable terms of the Floodplain Management Overlay District regulations (section 24.1-373 of this chapter) and in a manner that eliminates

or reduces nonconforming features to the extent possible. The reconstruction of any nonconforming structures shall be in accordance with the terms of section 24.1-802.

Nothing in this section shall be construed to prohibit normal and ordinary repairs and maintenance for a structure housing a nonconforming use. However, owner-initiated demolition and rebuilding/reconstruction of all or any structural portion of a building housing such use, shall not be permitted unless the need for demolition is the result of a natural disaster or other cause beyond the control of the owner.

Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured housing unit from property and its replacement with another comparable manufactured housing unit in accordance with section 24.1-802(c).

(d) *Changes in use*. A nonconforming use may at any time, upon approval of a site plan submitted in accordance with article V of this chapter, be changed to a conforming use or to a use which is more nearly conforming with the regulations of the district in which it is located.

(e) *Movement.* Except as provided in section 24.1-801(a) above, no nonconforming use shall be moved in whole or in part on the same lot or parcel or to any other lot or parcel which is not properly zoned to permit such use.

(f) *Construction.* Except as provided in section 24.1-801(a) above, no additional structures which do not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(g) *Rezoning/Special Use Permit*. If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the holder of such business license may apply for a rezoning or a special use permit without charge for fees associated with such filing.

(Ord. No. 02-16, 9/17/02; Ord. No. 08-17(R), 3/17/09; Ord. No. 16-11, 10/4/16)

Sec. 24.1-802. Nonconforming structures.

(a) *Enlargement or alteration*. No structure which is nonconforming by reason of a conflict with the setback, yard, height or similar regulations of the district in which located may be enlarged, extended, structurally altered or moved in any way which increases its nonconformance with the applicable setback, yard, height or similar regulations of the district in which located. Except as may be provided in article II relative to front yards in built-up areas, any addition to nonconforming structures shall comply in all respects with the applicable setback, yard, height or similar regulations of the district in which located.

(b) *Damage or destruction.* A nonconforming structure which is damaged or destroyed by a natural disaster, act of God, or other cause beyond the control of the owner may be reconstructed at the location of its original foundation, or at a location on the lot which is conforming or more nearly conforming provided that such reconstruction occurs within two (2) years of such damage or destruction and provided that a site plan submitted in accordance with article V of this chapter is approved. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. However, if the nonconforming building or structure is in an area under a federal disaster declaration and the damage or destruction is a direct result of the conditions that gave rise to the disaster declaration, then the allowable timeframe for reestablishment or reconstruction shall be four (4) years. Repair, rebuilding or replacement of structures shall be in compliance with the terms of the Virginia Uniform Statewide Building Code and all applicable terms of the Floodplain Management Overlay District regulations (section 24.1-373 of this chapter) and in a manner that eliminates or reduces nonconforming features to the extent possible. Reconstruction shall be deemed to have occurred upon the issuance of a building permit for the structure, provided that completion is thereafter diligently pursued. If a building permit has not been issued for such reconstruction within two (2) years or four (4) years if applicable, of the damage or destruction, then such structure may be reconstructed only in full accordance with all normally applicable provisions of this chapter.

For purposes of this section, "act of God" shall include any natural disaster or phenomenon including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under Code of Virginia section 18.2-77 or 18.2-80, and obtain vested rights under this section.

Nothing in this section shall be deemed to prohibit normal and ordinary repairs and maintenance for a nonconforming structure. However, owner-initiated demolition and rebuilding/reconstruction of all or any structural portion of a nonconforming structure, shall not be permitted unless the need for demolition is the result of a natural disaster or other cause beyond the control of the owner.

(c) *Special provisions for manufactured housing units*. Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from a mobile home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code, provided that the degree of nonconformity with any yard or setback requirements applicable to the district in which located does not increase. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. If the nonconforming mobile or manufactured home is located on a property not within a mobile home park, it may be replaced with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code and provided that any nonconformity with yard or setback requirements does not increase. Such replacement unit shall retain the valid nonconforming status of the home.

(d) Other provisions of this Chapter notwithstanding, when the owner of a building which would normally be considered not to meet the criteria for a legally existing nonconforming structure can document that:

(1) such building was permitted by a Building Permit issued by York County and that the building was constructed in accordance with the Building Permit and was issued a Certificate of Occupancy by the County, or

(2) the owner of such a building has paid taxes to the County for such building for a period of more than the previous fifteen (15) years; then such building shall be deemed to be nonconforming, but not illegal, provided that it is brought into compliance with the Uniform Statewide Building Code.

(e) Other provisions of this Chapter notwithstanding, where York County has issued a permit, other than a Building Permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, such improvement, if not in conformance with this chapter, shall be deemed to be nonconforming, but not illegal.

(Ord. No. 02-16, 9/17/02)(Ord. No. 03-31, 8/5/03; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-15, 8/18/09; Ord. No. 10-24, 12/21/10; Ord. No. 14-21, 11/18/14)

Sec. 24.1-803. Accessory structures or uses.

Except as may be provided in section 24.1-801(a), structures accessory to a nonconforming principal use shall not be established or enlarged, and the character of uses accessory to a nonconforming principal use shall not be changed.

(Ord. No. O98-18, 10/7/98)

Sec. 24.1-804. Nonconforming lots.

Where a lot of record, existing at the time of adoption of this chapter or amendments thereto, does not conform to the area, width or other dimensional requirements of this chapter, such lot shall be deemed a nonconforming lot of record and shall be subject to the requirements of the applicable district in effect at the time of application for development approval, provided, however, that where a lawfully recorded subdivision plat establishes and depicts minimum building setback lines that were legal at the time of recordation, the recorded minimum setback may be used provided that the front setback is not less than thirty feet (30').

In all other situations, the following standards shall apply:

(a) *Residential districts*. Nonconforming lots in residential districts may be used for any permitted use pro-

vided that the following minimum yard requirements are observed:

(1) *Front yard*. The normally applicable dimension shall be effective and shall not be reduced in depth, unless the standards in section 24.1-222 are met. However, where the front yard setback of an existing structure is nonconforming, but not less than thirty feet (30'), additions to such structure may be constructed at the same setback as the existing structure.

(2) *Side yard*. The normally applicable dimension may be reduced by one foot (1') for each two feet (2') of deficiency in the lot width, but in no case shall any side yard be less than ten feet (10') in width.

(3) *Rear yard.* The normally applicable dimension may be reduced to not less than fifteen percent (15%) of the lot depth, or fifteen feet (15'), whichever is greater.

(b) *Commercial or industrial districts.* Nonconforming lots in commercial or industrial districts may be used for any permitted use provided that the following minimum yard requirements are observed:

(1) *Front yard*. The normally applicable dimension shall be effective and shall not be reduced in depth, unless the standards in section 24.1-222 are met. However, where the front yard setback of an existing structure is nonconforming, but not less than forty feet (40'), additions to such structure may be constructed at the same setback as the existing structure.

(2) *Side yard*. The normally applicable dimension or not less than ten percent (10%) of the lot width, whichever is less.

(3) *Rear yard*. The normally applicable dimension or not less than fifteen percent (15%) of the lot depth, whichever is less.

(c) None of the adjustments authorized herein shall be construed to supersede or repeal any special setback, landscape yard, or transitional buffer requirements established and applicable under other provisions of this chapter.

Sec. 24.1-805. Validity of previously-issued permits and approvals.

No provision of this chapter shall be construed to affect the validity of any of the following:

(a) Any building permit legally issued prior to the adoption of this chapter or amendments thereto, provided that all of the terms and conditions of such permit are observed.

(b) Any site plan which received either preliminary or final approval prior to the adoption of this chapter or amendments thereto, provided that all time limitations relative to the period of validity of said plan approval are observed.

(c) Any special use permit lawfully authorized by the board prior to the adoption of this chapter or amendments thereto, provided that all of the terms and conditions of such permit are observed. Any use legally established by use permit which subsequently becomes nonconforming may be enlarged or expanded only in accordance with the provisions of section 24.1-801(a) of this chapter.

(d) Subdivisions granted approval prior to the adoption of this chapter or amendment thereto, may proceed to record provided that all of the terms and conditions of plan approval, including time limits, are observed, and that the minimum lot size and lot width may be in accordance with the area and dimensional requirements existing at the date of such approval. Upon recordation of the subdivision plat, any lot not complying with the area or lot width requirements of the then current zoning classification shall be deemed a lawfully nonconforming lot of record and the front setbacks, and side and rear yard requirements for such lots may be adjusted as allowed by the terms of Section 24.1-804. An approved preliminary subdivision plat, duly signed and dated by the agent, as defined in the subdivision ordinance, shall constitute approval for the purpose of this section if executed in accordance with all applicable laws.

(e) Any approval of a planned development granted prior to the adoption of this chapter or amendment thereto. Such development may proceed to record provided that all of the terms and conditions of the approval, including time limits, are observed. An approved detailed plan for at least one (1) section of the development shall constitute approval for the purpose of this section.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 08-17(R), 3/17/09)

Secs. 24.1-806—–24.1-899. Reserved.

ARTICLE IX. APPEALS

Sec. 24.1-900. Board of zoning appeals established.

Pursuant to the requirements of title 15.2, Code of Virginia, there is hereby established a Board of Zoning Appeals for the County of York, Virginia.

The board of zoning appeals shall consist of five (5) residents of the county, one (1) of whom may be a member of the planning commission, each to be appointed by the judge of the county circuit court. The terms of office, organization, and procedures of this board shall be in accordance with the provisions established by section 15.2-2308, Code of Virginia.
(Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-901. Powers and duties.

The board of zoning appeals shall have all the powers and duties as prescribed in section 15.2-2309, Code of Virginia, and as set forth below:

(a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or any amendment thereto or any modification of zoning requirements pursuant to section 24.1-902. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with Section 15.2-2309 of the Code of Virginia, notwithstanding any other provision of law, general or special.

(b) Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance and the criteria set out in Section 15.2-2309 of the Code of Virginia.

(1) Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and

a. the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

b. the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

c. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

d. the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

e. the relief or remedy sought by the variance application is not available through the granting of a special use permit by the board of supervisors or the process for modification of a zoning ordinance pursuant to Section 24.1-113 of this chapter at the time of the filing of the variance application.

(2) In accordance with section 15.2-2309, Code of Virginia, in granting a variance, the board of zoning appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a performance guarantee to ensure that the conditions imposed are being and will continue to be complied with.

(3) Notwithstanding any other provision of law, general or special, any deviation from the normally applicable regulations of this chapter that is approved by the authorization of a variance shall thereafter be considered a conforming feature of the property. However, any construction authorized by such variance shall be allowed to expand further only to the extent that such expansion conforms with all applicable requirements of this chapter. Any expansion proposed within an area of the site or part of the structure which does not conform to all applicable zoning standards shall be permitted only if authorized by approval of another variance request.

(c) To hear and decide applications for interpretation of the zoning map where there is any uncertainty as to the location of a district boundary.

(d) None of the provisions of this section shall be construed as granting the board of zoning appeals the power to reclassify property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 05-34(R), 12/20/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 15-12, 9/15/15)

Sec. 24.1-902. Administrative variance from setback requirements.

(a) Pursuant to section 15.2-2286.A.4, Code of Virginia, the zoning administrator may authorize a modification from any provision contained in this chapter with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure or improvements, upon finding in writing all of the following:

(1) The strict application of the chapter would produce undue hardship;

(2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

(3) The authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.

(b) Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within twenty-one (21) days of the date of the notice. Notice shall be sent by first class mail and an affidavit of such mailing shall be kept in the file, or the applicant may personally deliver the notice to the adjacent property owners and request their written verification of receipt.

(c) The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice provided pursuant to this section. The decision of the zoning administrator shall constitute a decision within the purview of section 24.1-901 and may be appealed to the board of zoning appeals as prescribed by that section. Decisions of the board of zoning appeals may be appealed to the circuit court as provided by section 24.1-904.

(Ord. No. 05-34(R), 12/20/05)

Sec. 24.1-903. Procedures.

(a) *Variances and interpretations of the zoning map.* Applications for variances as described in section 24.1-901, may be made by any property owner, tenant, government official, department, board or bureau. Such application, and accompanying maps, plans or other information, shall be made to the secretary of the board of zoning appeals who shall place the item on the docket to be acted on by the board of zoning appeals after public notice and hearing as required by section 15.2-2204, Code of Virginia.

(b) *Appeals of administrative decisions.* An appeal to the board of zoning appeals may be made by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or from any other requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter. Such appeal shall be made within thirty (30) days after the decision appealed from by filing with the secretary of the board of zoning appeals an application and a notice of appeal specifying the grounds thereof; provided, however, that any appeal from a notice of violation involving temporary or seasonal commercial uses (reference section 24.1-306, Category 8), parking of commercial trucks in residential zoning districts (reference section 24.1-271) maximum occupancy limitations of a residential dwelling unit, or other situations which in the opinion of the Zoning Administrator constitute a series of similar short-term, recurring violations shall be made within ten (10) days. The secretary shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the appealed action was taken. An appeal shall stay all proceedings in furtherance of the appealed action unless the zoning administrator certifies to the board of zoning appeals that, by reason of facts stated in such certificate, a stay would, in the administrator's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board of zoning appeals or by a court of record, on application and on notice to the administrator for good cause shown.

(c) *Process.* The board of zoning appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest, and, except when the applicant concurs in a further delay, decide the same within sixty (60) days of the first regularly scheduled meeting for which the matter is on the docket. In exercising its powers, the board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, or may remand the issue to the zoning administrator for further consideration in which case a specific time for such further consideration shall be stipulated. No action of the board of zoning appeals shall be valid unless authorized by a majority of those present and voting, except that the concurring vote of a majority of the membership of the board of zoning appeals shall be necessary to reverse any order, requirement, decision or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance, or to effect any variance from this chapter. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal. The board of zoning appeals shall keep minutes of its proceedings and other official actions which shall be filed with the zoning administrator and shall be public records. The chair of the board of zoning appeals, or the acting chair, may administer oaths and compel the attendance of witnesses.

(d) *Reconsideration*. When the board of zoning appeals has acted on an application or appeal, substantially the same application or appeal shall not be considered by the board of zoning appeals within one (1) year of the date of action, except by unanimous vote of the membership of the board of zoning appeals.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 09-15, 8/18/09; Ord. No. 12-15, 9/18/12)

Sec. 24.1-904. Appeals from decisions of board.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the county may file with the county circuit court a petition that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of York County" specifying the grounds on which aggrieved within thirty (30) days after the final decision by the board of zoning appeals. The court shall review and decide on such petition in accordance with the provisions established by section 15.2-2314, Code of Virginia.

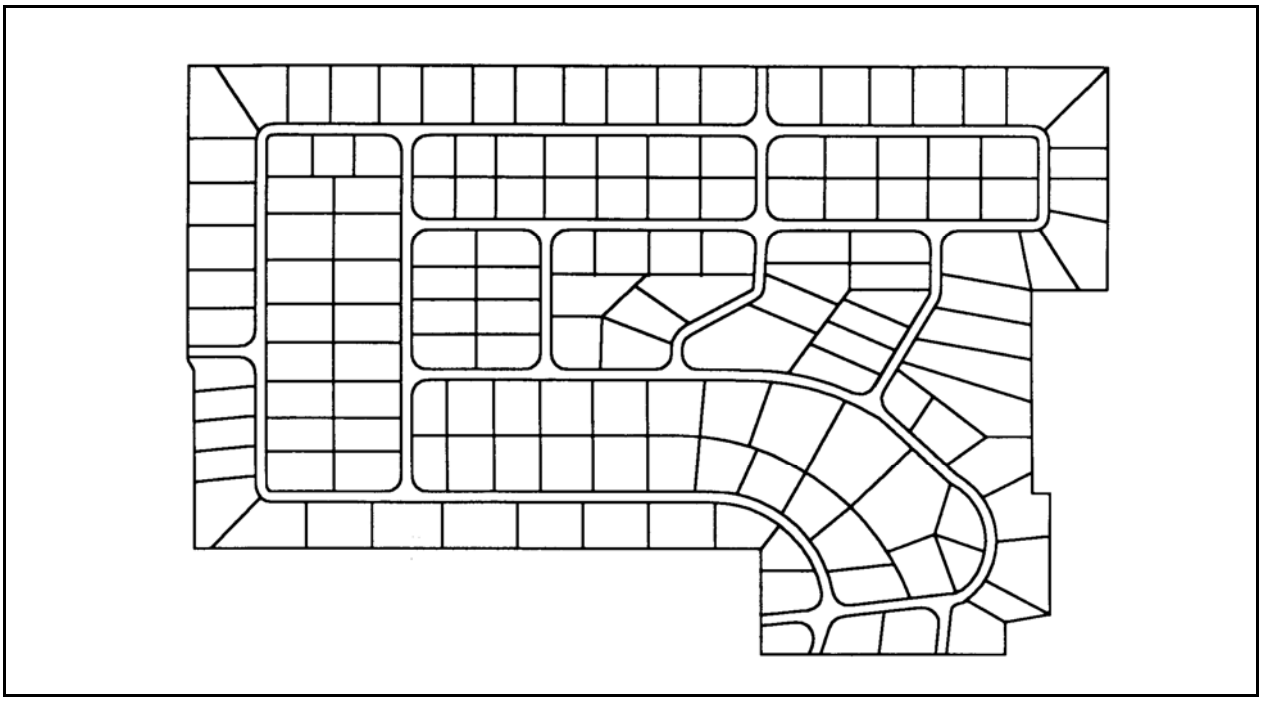
(Ord. No. 01-20(R), 10/16/01; Ord. No. 10-24, 12/21/10)

Secs. 24.1-905—24.1-999. Reserved.

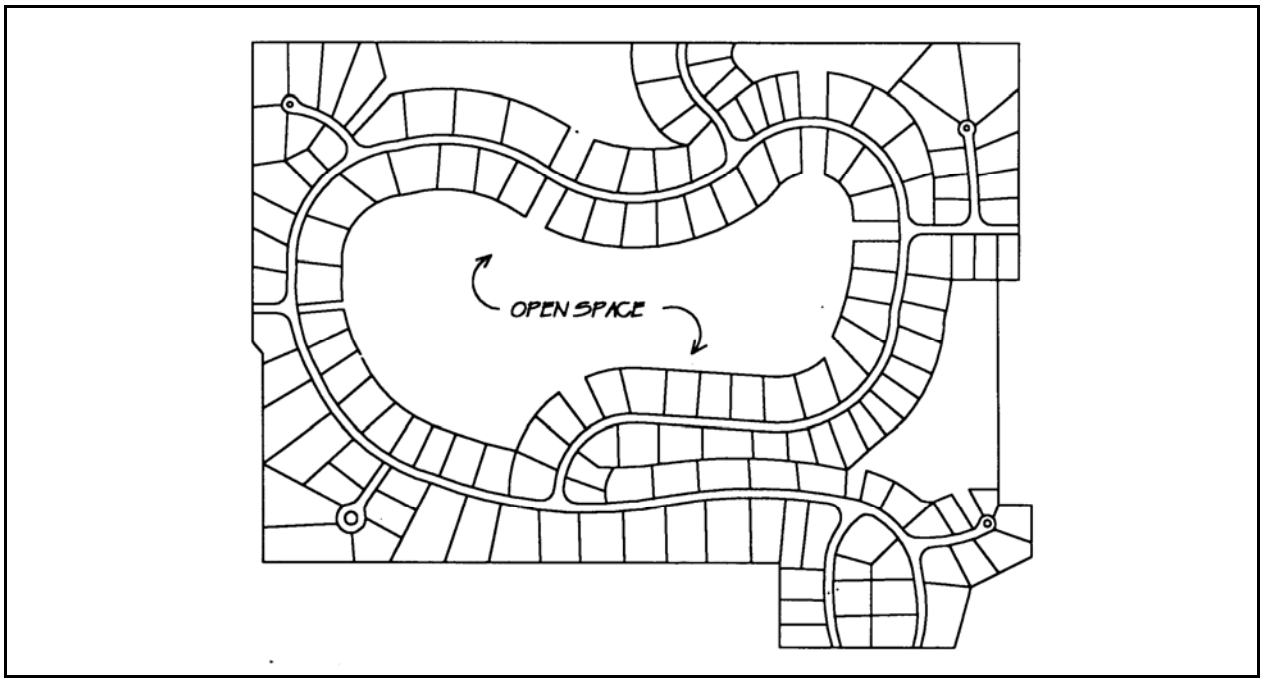
APPENDIX A

DIAGRAMS, TABLES AND FIGURES

FIGURE I-1

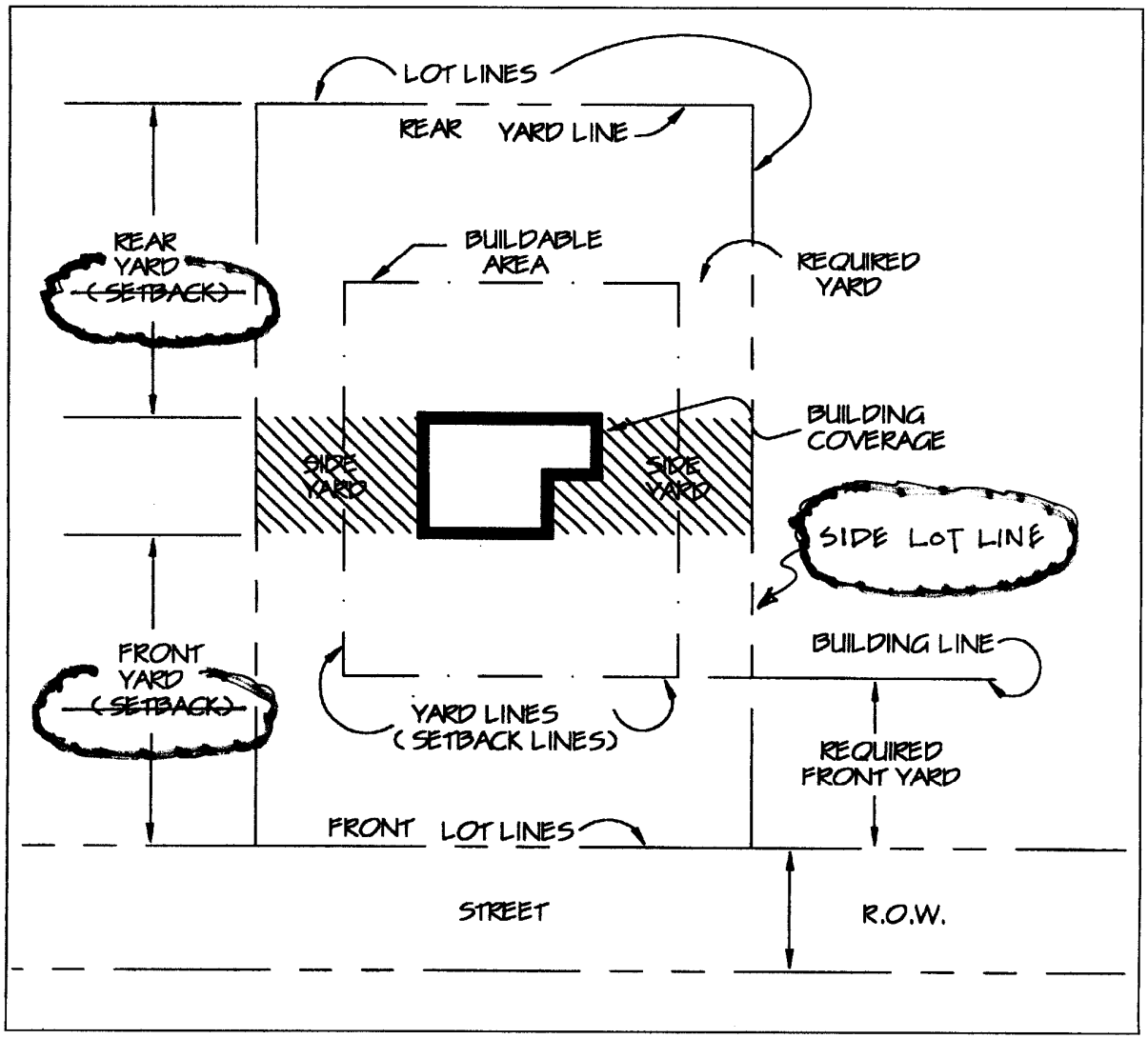


CLUSTER VERSUS CONVENTIONAL SUBDIVISION
Conventional Subdivision



Cluster Subdivision

FIGURE I-2



LOT LINES/YARD SETBACKS

FIGURE 1-3
LOT TYPES

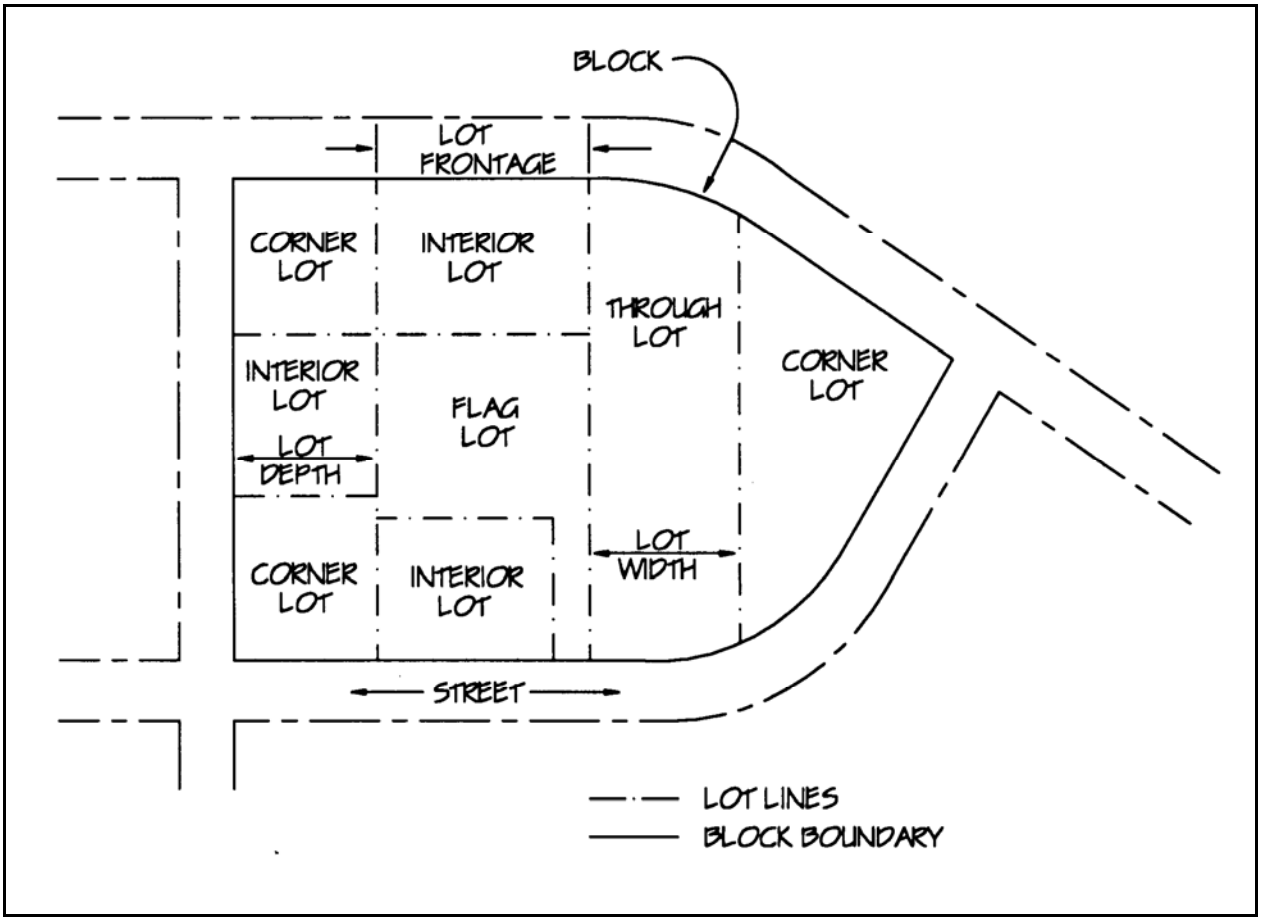


FIGURE I-4

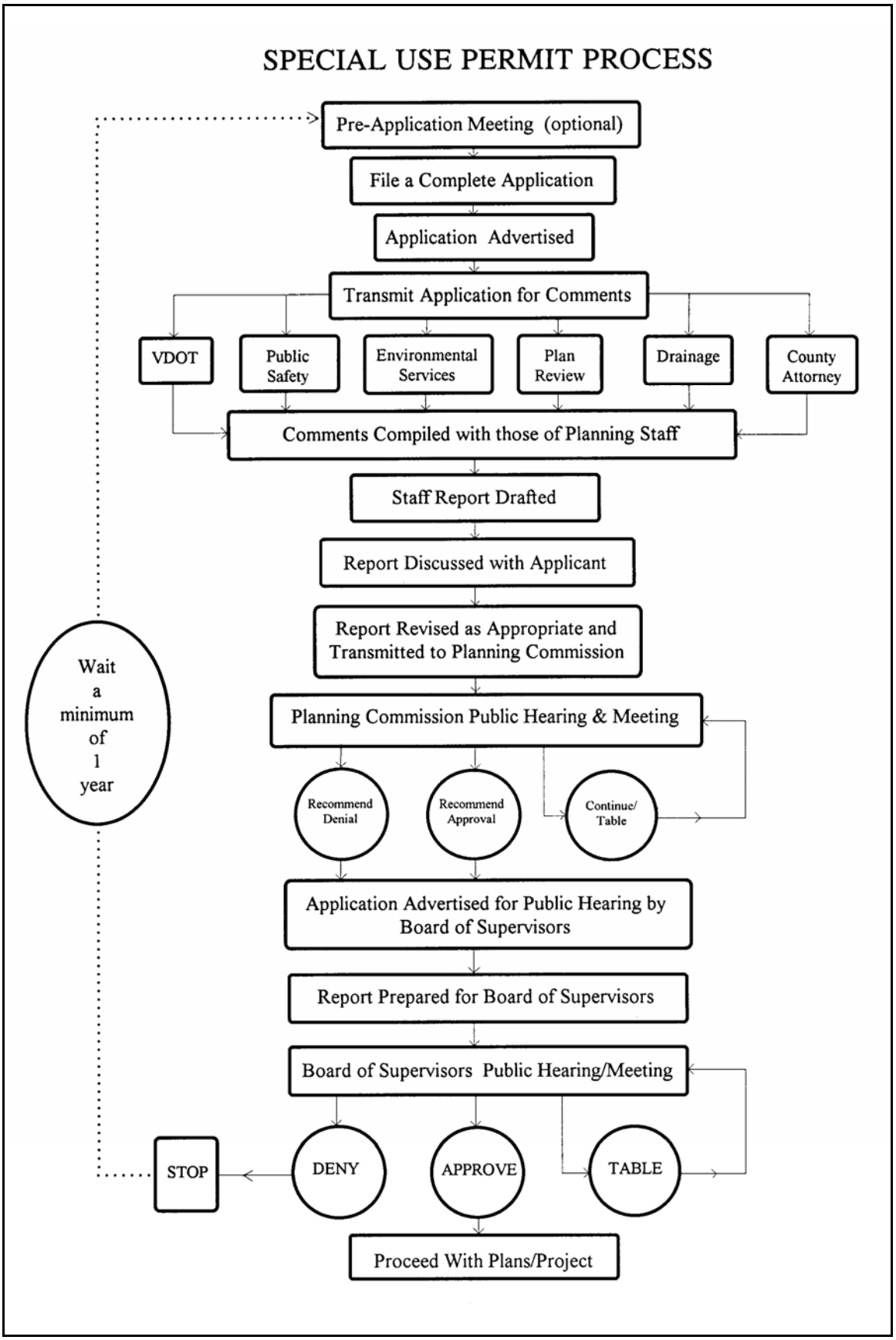

SPECIAL USE PERMIT PROCESS
Pre-Application Meeting (optional)
File a Complete Application
Application Advertised
Transmit Application for Comments
VDOT
Public Safety
Environmental Services
Plan Review
Drainage
County Attorney
Comments Compiled with those of Planning Staff
Staff Report Drafted
Report Discussed with Applicant
Report Revised as Appropriate and Transmitted to Planning Commission
Wait a minimum of 1 year
Planning Commission Public Hearing & Meeting
Recommend Denial
Recommend Approval
Continue/ Table
Application Advertised for Public Hearing by Board of Supervisors
Report Prepared for Board of Supervisors
Board of Supervisors Public Hearing/Meeting
STOP
DENY
APPROVE
TABLE
Proceed With Plans/Project

FIGURE I-5

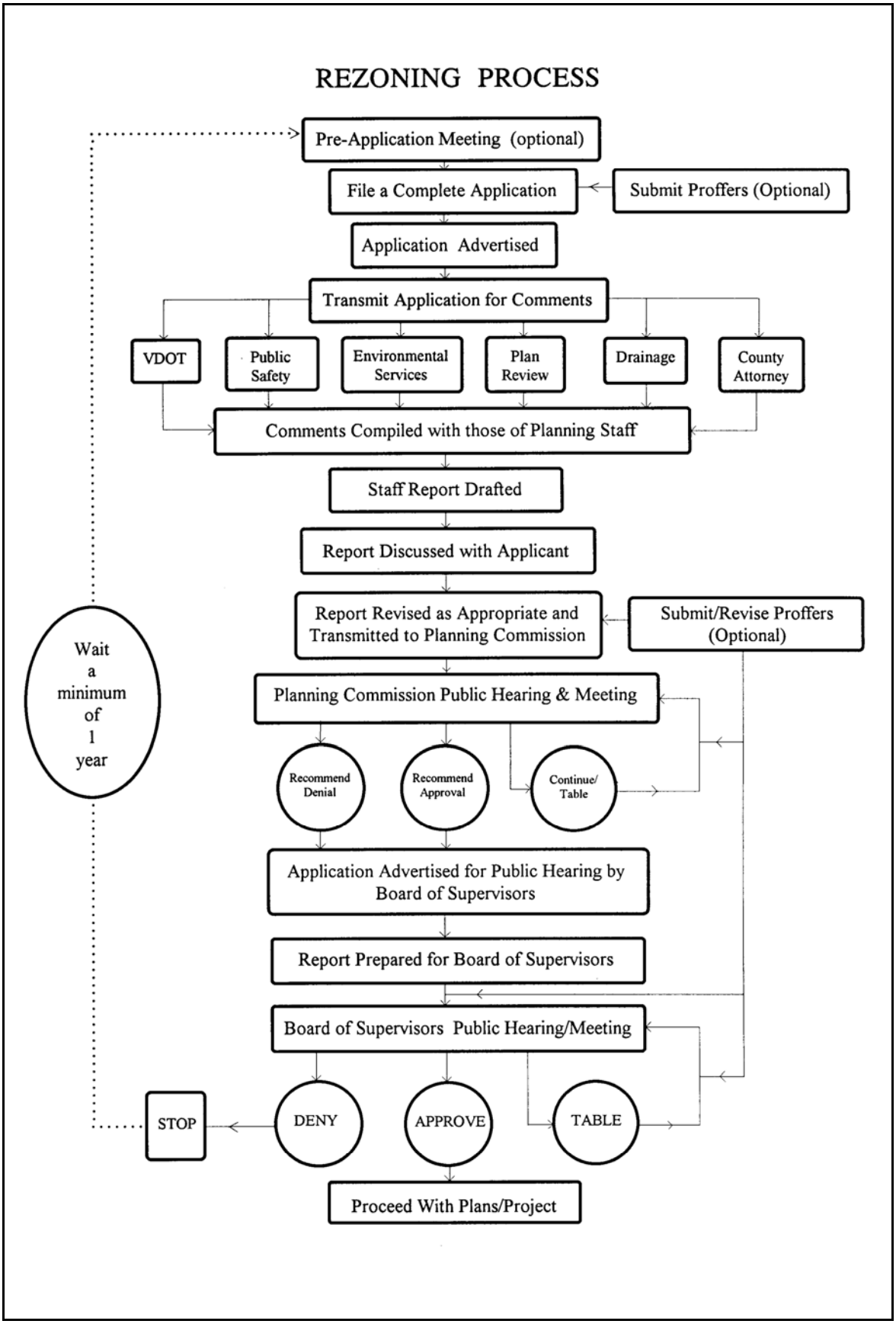

REZONING PROCESS
Pre-Application Meeting (optional)
File a Complete Application
Submit Proffers (Optional)
Application Advertised
Transmit Application for Comments
VDOT
Public Safety
Environmental Services
Plan Review
Drainage
County Attorney
Comments Compiled with those of Planning Staff
Staff Report Drafted
Report Discussed with Applicant
Report Revised as Appropriate and Transmitted to Planning Commission
Submit/Revise Proffers (Optional)
Wait a minimum of 1 year
Planning Commission Public Hearing & Meeting
Recommend Denial
Recommend Approval
Continue/ Table
Application Advertised for Public Hearing by Board of Supervisors
Report Prepared for Board of Supervisors
Board of Supervisors Public Hearing/Meeting
STOP
DENY
APPROVE
TABLE
Proceed With Plans/Project

FIGURE II-1
CURVED STREET FRONTAGE

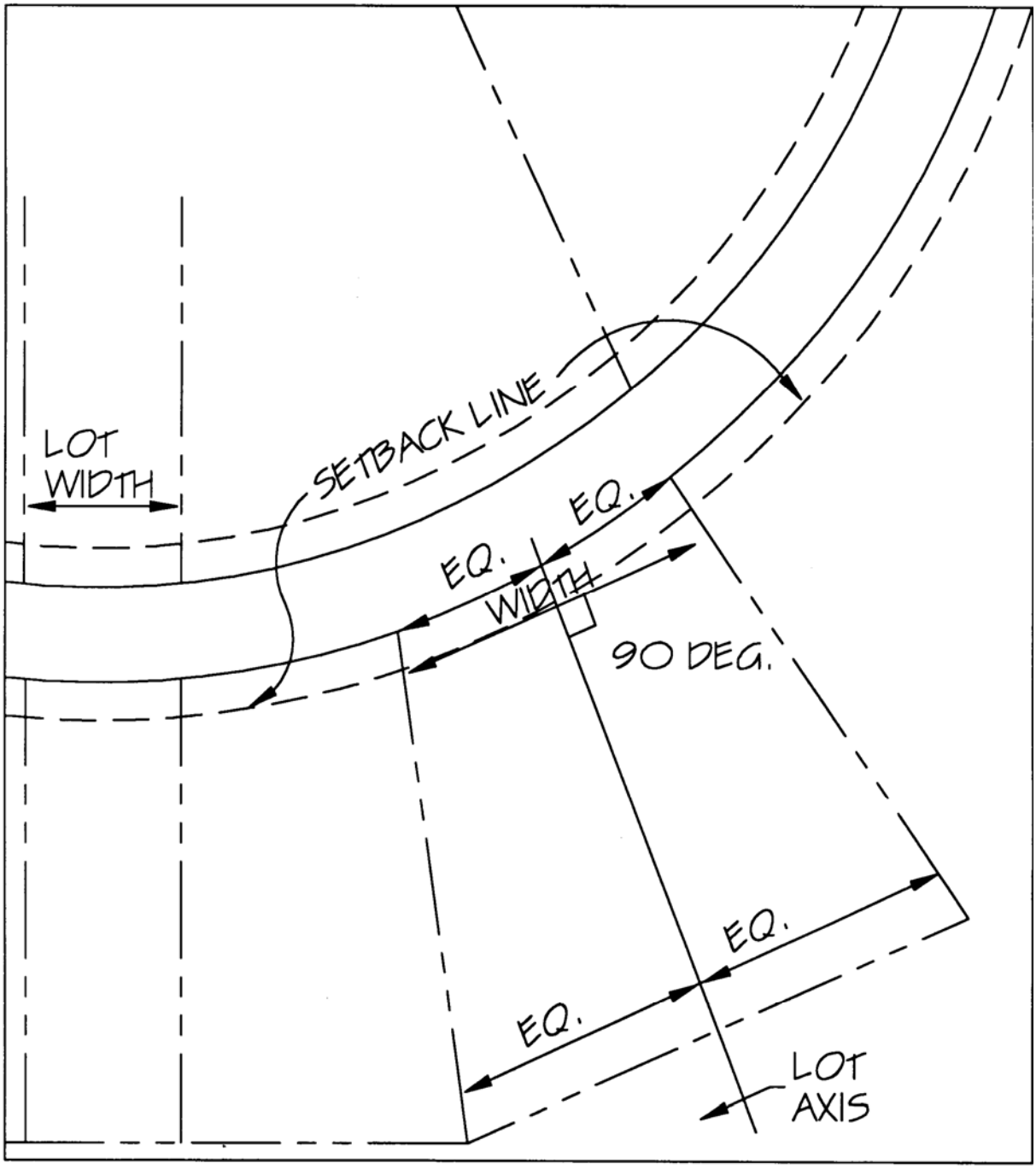
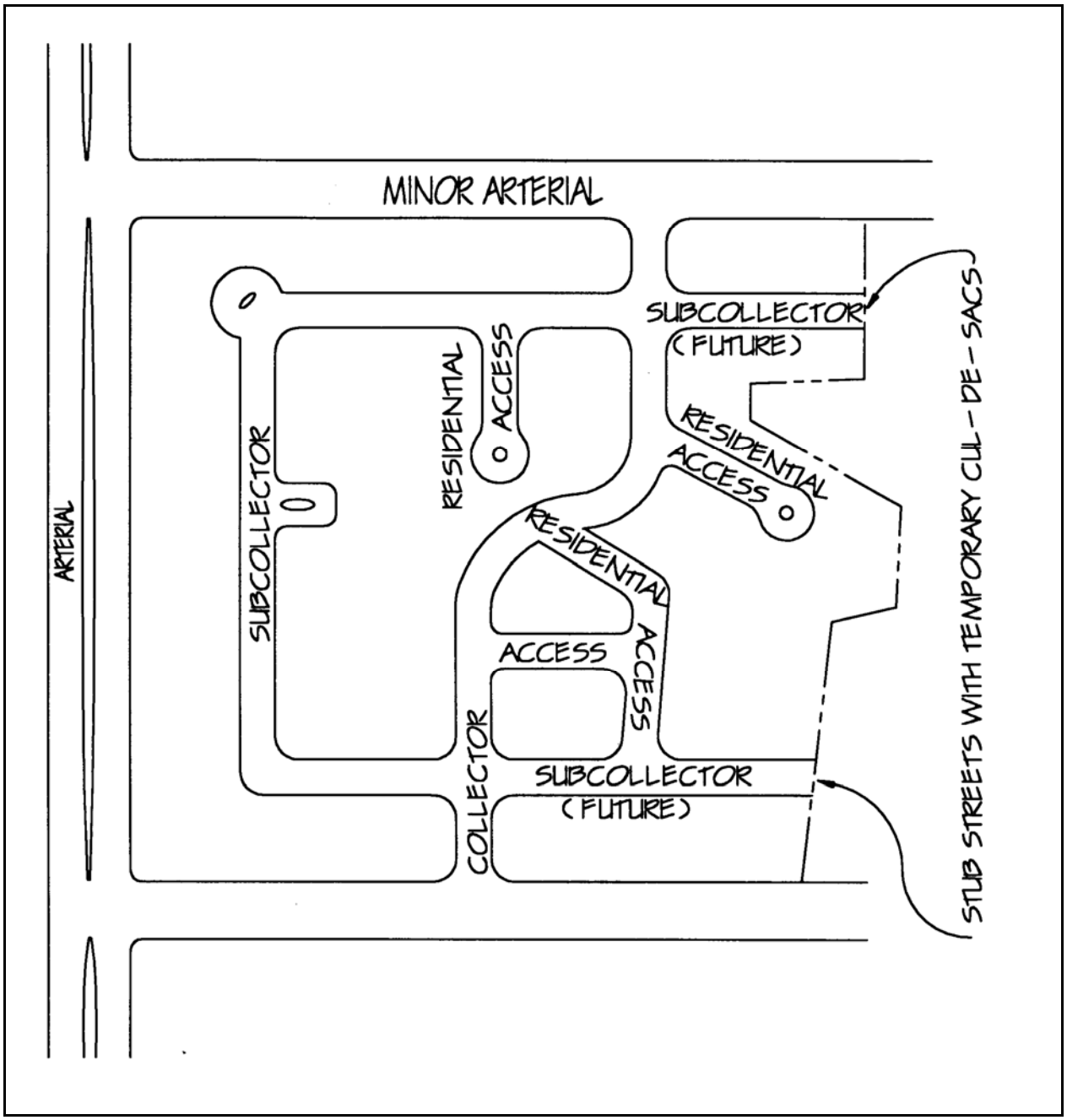
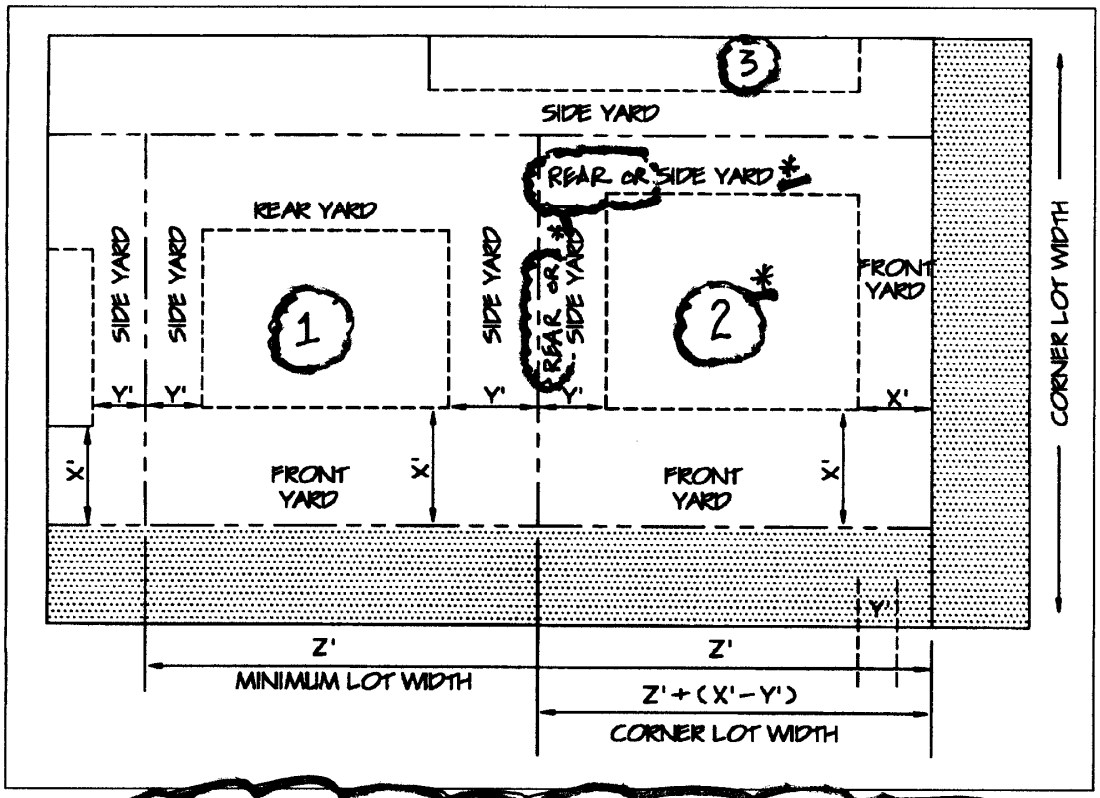


FIGURE II-2



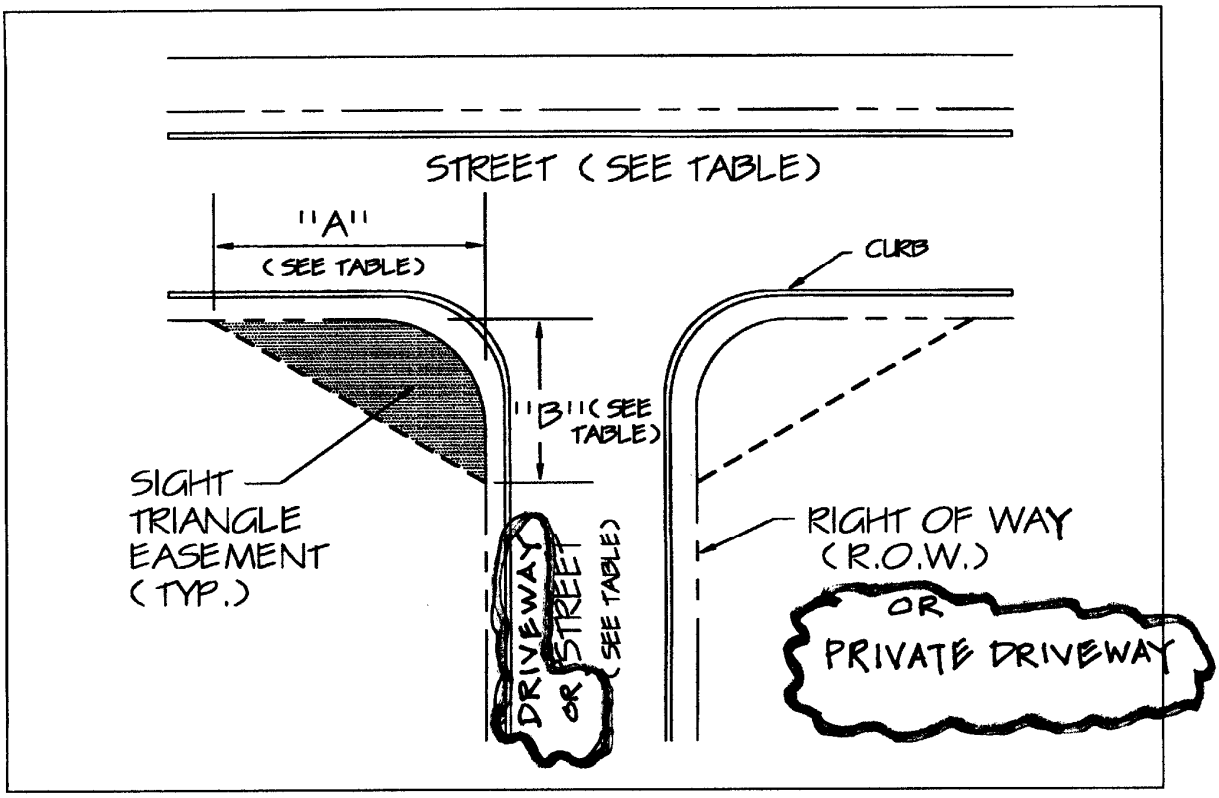
STREET ACCESS

FIGURE II-3
CORNER LOTS VERSUS INTERIOR LOTS



* SIDE AND REAR YARD DETERMINATIONS TO BE MADE AT TIME OF BUILDING PERMIT APPLICATION BASED ON ORIENTATION OF PROPOSED STRUCTURE ON LOT #2 AND ORIENTATION OF ANY EXISTING STRUCTURES ON LOT #'s 1 AND 3.

FIGURE II-4
SIGHT TRIANGLES



SIGHT TRIANGLE TABLE

"A" (in feet)		"B" (in feet) Access	Subcollector	Minor Collector	Major Collector	Minor Arterial	Major Arterial
Access	20	20	20	30	40	50	60
Subcollector	20	20	20	30	40	50	60
Minor Collector	30	20	20	30	40	50	60
Major Collector	40	20	20	30	40	50	60
Minor Arterial	50	20	20	30	40	50	60
Major Arterial	60	20	20	30	40	50	60

FIGURE II-5
EARTH BERM

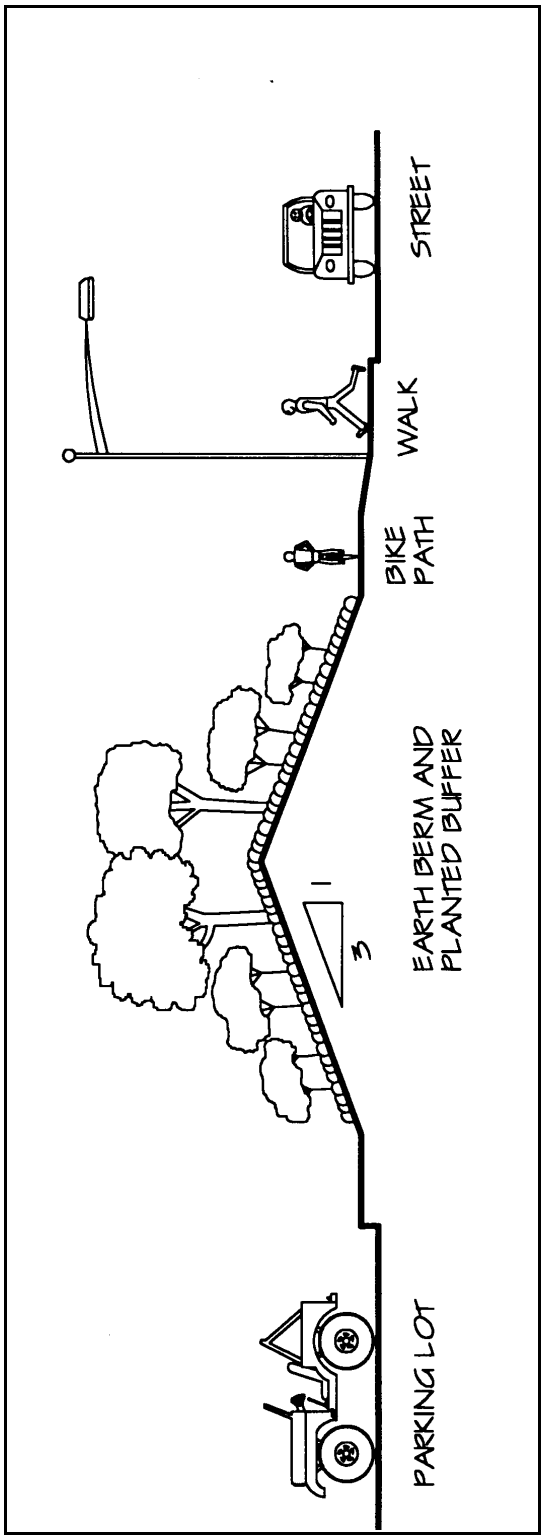


FIGURE II-6
STAGGERED PLANTING

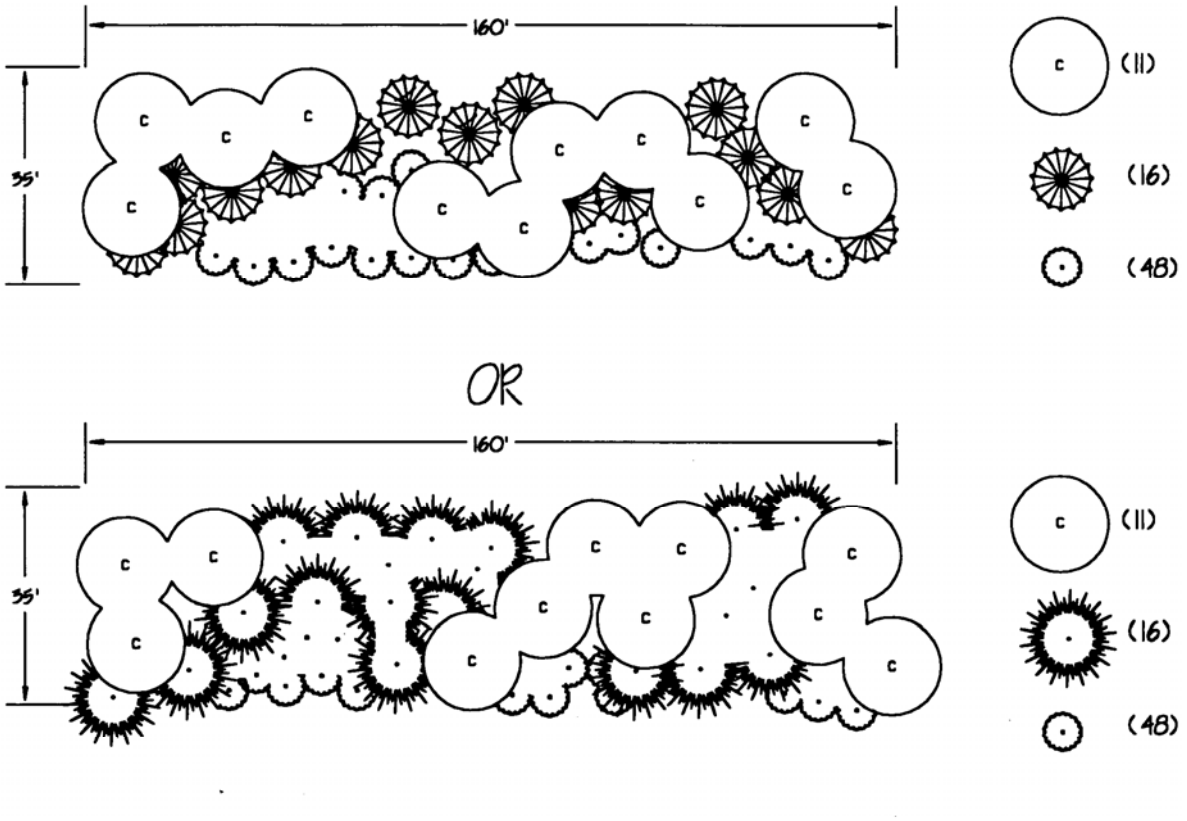
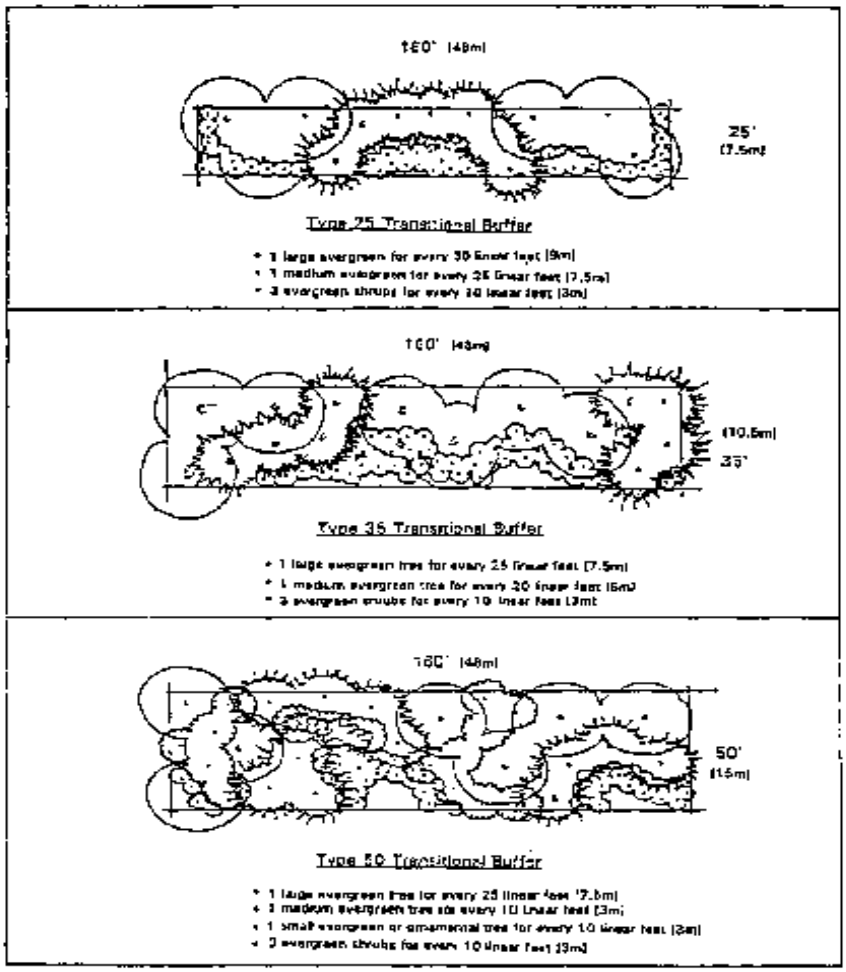


FIGURE II-7
TRANSITIONAL BUFFER ZONES



SCALE 1" = 40'

NOTES: *These are schematic diagrams. Transitional buffers need not be designed exactly as depicted. Linear feet (meters) measurement is along the outside edge of the transitional buffer.*

FIGURE II-7.1
ACCESSORY BUILDING SETBACK

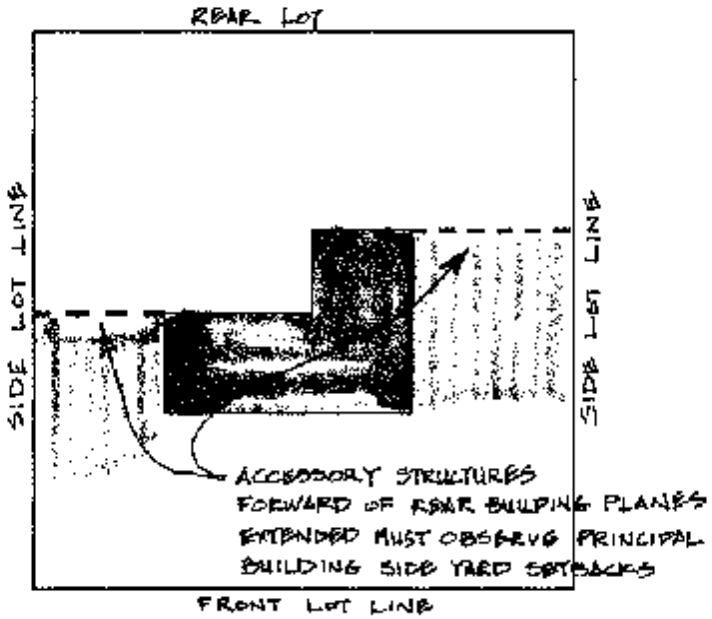
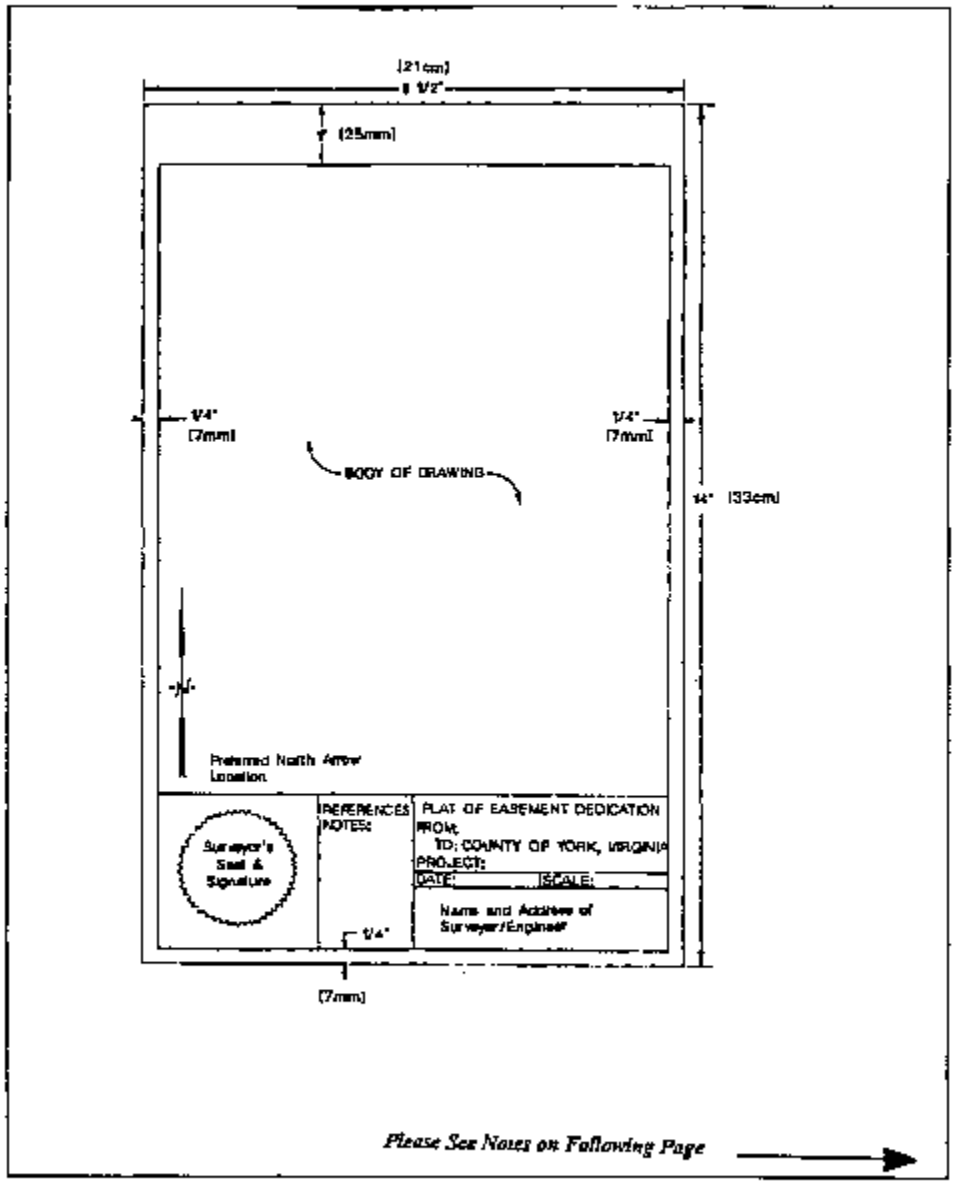


FIGURE II-B
SAMPLE EASEMENT/RIGHT-OF-WAY PLAT



NOTES

1. **THE PLAT SHALL CONTAIN ONE OF THE FOLLOWING TITLES AS APPLICABLE:**

    a.) **PLAT OF EASEMENT DEDICATION**
    b.) **PLAT OF RIGHT-OF-WAY DEDICATION**
    c.) **PLAT OF EASEMENT/RIGHT-OF-WAY DEDICATION**

2. **ALL EASEMENTS TO BE DEDICATED TO THE COUNTY SHALL BE SPECIFIED AS DRAINAGE AND UTILITY EASEMENTS UNLESS OTHERWISE SPECIFIED BY THE AGENT.**

3. **ALL EASEMENTS WHICH DO NOT FOLLOW PROPERTY LINES SHALL BE LOCATED BY A METES AND BOUNDS DESCRIPTION AND OTHER INFORMATION AS NECESSARY TO ACCURATELY LOCATE SUCH EASEMENTS.**

4. **ALL EASEMENTS WHICH FOLLOW DITCHES, SWALES, STREAMS, ETC., MAY BE DESIGNATED AS FOLLOWING THE CENTERLINE OF SUCH DITCH, SWALE, OR STREAM. THE OUTER BOUNDARIES OF THE EASEMENT SHALL BE SHOWN.**

5. **THE FULL NAME OF THE PROPERTY OWNER AS SHOWN ON THE OWNER'S DEED MUST BE PROVIDED. ALSO PROVIDE THE APPROPRIATE DEED REFERENCE ON THE PLAT.**

Evergreen Trees Botanical / Common Name	Projected 10-Year Cover Area (square feet) Height at Planting			Minimum Planting Area (square feet)	Uses / Placement					Environmental Tolerances						Problems				
	6’	8’	10’		Parking Lot	Screening	Small Areas	Overhead Utilities	Rights-of-Way	Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Disease	Insects	Weak Wood	Objectionable Fruit	Objectionable Roots
Cedrus deodora / Deodar Cedar	75	100	125	50		X														
Chamaecyparis obtuse / Hinoki Cypress	75	100	125	50			X	X		X		X								
Cunninghamia lanceolata / China Fir	75	100	125	50		X														
Cupressocyparis Leyland / Leyland Cypress	75	100	125	50		X						X								
Ilex ‘Nellie Stevens’ / Nellie Stevens Holly	75	100	125	50		X						X								
Ilex opaca / American Holly	75	100	125	50		X			X			X								
Ilex X attenuata / Foster’s Holly	75	100	125	50		X			X			X								
Juniperus virginiana/ Eastern Red Cedar						X		X		X	X	X			X		X			
Juniperus chinensis ‘Kaizuka’/ Hollywood Juniper						X	X	X		X					X		X			
Magnolia grandiflora/ Southern Magnolia	125	150	175	90		X						X								X
Magnolia grandiflora ‘Little Gem’/ Little Gem Magnolia	75	100	125	50	X		X	X	X	X		X								
Myrica cerifera/ Bayberry or Wax Myrtle (multi-trunk)					X	X	X	X		X		X		X				X		
Pinus taeda / Loblolly Pine	150	200	250	130							X	X			X			X		
Pinus thunbergiana/ Japanese Black Pine	60	80	100	50		X	X	X	X	X	X				X					
Quercus virginiana/ Live Oak									X			X								
Thuja occidentalis / Arborvitae	75	100	125	50		X	X	X		X	X									
Thuja orientalis / Oriental Arbovitae	75	100	125	50		X	X	X		X	X									

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Small Deciduous Trees (Up to 35 feet mature height) Botanical / Common Name	Projected 10-Year Cover Area (square feet) Caliper Size at Planting			Minimum Planting Area (square feet)	Uses / Placement					Environmental Tolerances						Problems				
	1.5”	2”	3”		Parking Lot	General Use	Small Areas	Overhead Utilities	Rights-of-Way	Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Disease	Insects	Weak Wood	Objectionable Fruit	Objectionable Roots
Acer ginnala/ Amur Maple	60	80	100	60	X	X	X	X		X	X	X		X						
Acer palmatum / Japanese Maple	60	80	100	60		X	X	X		X		X								
Amelanchier arborea / Serviceberry	100	125	150	60		X	X	X		X		X	X			X	X			
Cercis canadensis / Easterm Redbud	150	175	200	50		X	X	X		X	X	X	X			X				
Chionanthus virginicus / White Fringe Tree	80	100	120	60		X	X	X		X		X								
Crataegus viridis ‘Winter King’/ Green Hawthorn	150	175	200	100	X	X	X	X	X	X					X	X	X			
Koelreturia paniculata / Goldenraintree	150	175	200	100	X	X	X	X	X	X					X					
Lagerstroemia indica / Crape Myrtle	150	175	200	100	X	X	X	X	X	X	X			X	X					
Magnolia stellata / Star Magnolia	100	120	150	60		X	X	X		X										
Magnolia x soulangeana / Saucer Magnolia	150	175	200	60		X	X	X		X										
Magnolia virginiana/ Sweetbay Magnolia	100	125	150	60		X	X	X		X		X		X						
Malus sp./ Crabapple	150	175	200	100		X	X	X	X	X					X	X	X	X		
Prunus cerasifera / Flowering Plum	100	125	150	100	X	X	X	X	X	X						X	X	X		
Prunus serrulata/ Kwanzan Cherry	150	175	200	100	X	X	X	X	X	X					X	X	X			
Prunus subhirtella/ Higan Cherry	150	175	200	100		X		X	X						X	X	X			
Prunus x yedoensis/ Yoshino Cherry	150	175	200	100	X	X	X	X	X	X					X	X	X			

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Medium Deciduous Trees (Up to 40 feet mature height) Botanical / Common Name	Projected 10-Year Cover Area (square feet) Caliper Size at Planting			Minimum Planting Area (square feet)	Uses / Placement					Environmental Tolerances						Problems				
	1.5”	2”	3”		Parking Lot	General Use	Small Areas	Overhead Utilities	Rights-of-Way	Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Disease	Insects	Weak Wood	Objectionable Fruit	Objectionable Roots
Betula nigra / River Birch		150	175	100	X	X								X						
Ginkgo biloba / Ginkgo (male variety)		150	175	100		X			X		X				X		X			
Pyrus calleryana / Callery Pear		150	175	100	X	X			X		X				X			X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Large Deciduous Trees (Over 50 feet mature height) Botanical / Common Name	Projected 10-Year Cover Area (square feet) Caliper Size at Planting			Minimum Planting Area (square feet)	Uses / Placement					Environmental Tolerances						Problems				
	1.5”	2”	3”		Parking Lot	General Use	Small Areas	Overhead Utilities	Rights-of-Way	Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Disease	Insects	Weak Wood	Objectionable Fruit	Objectionable Roots
Acer platanoides / Norway Maple		275	300	180		X			X		X	X					X			X
Acer rubrum / Red Maple		275	300	180	X	X			X		X	X		X			X			X
Acer saccharum / Sugar Maple		275	300	180		X			X		X	X					X			X
Fraxinus pennsylvanica / Green Ash (Marshall’s Seedless)		275	300	180	X	X			X		X				X					
Liquidambar styraciflua ‘Rotundiloba’/ Fruitless Sweetgum		275	300	180	X	X			X		X			X			X			
Metasequoia glyptostroboides/ Dawn Redwood		275	300	180		X			X		X			X						X
Nyssa sylvatica/ Black Gum		275	300	180		X			X			X		X			X			
Platanus x acerifolia / London Planetree		275	300	180		X									X	X	X			
Quercus acutissima / Sawtooth Oak		275	300	180		X			X											
Quercus coccinea / Scarlet Oak		275	300	180	X	X			X			X								
Quercus phellos / Willow Oak		275	300	180	X	X			X		X				X					
Taxodium distichum/ Baldcypress		275	300	180		X			X		X			X						X
Tilia cordata / Littleleaf Linden		275	300	180	X	X			X			X					X			
Ulmus parvifolia / Chinese Elm		275	300	180		X			X		X	X								
Zelkova serrato / Zelkova		275	300	180	X	X			X		X				X					

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Evergreen Shrubs Botanical / Common Name	Projected 10-Year Cover Area (square feet)			Minimum Planting Area (square feet)	Uses / Placement					Environmental Tolerances							Problems	
					Parking Lot Screen	General Uses	Small Areas	End Island	Screening/Buffering	Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Full Sun	Disease	Insects
	18”																	
Abelia grandiflora / Glossy Abelia	25			9	X	X					X	X			X	X	X	
Aucuba japonica / Japanese Aucuba	20			9	X	X						X	X					X
Berberis julianae / Wintergreen Barberry	20			9	X	X					X				X	X	X	
Buxus sempervirens / American Boxwood	6			4			X			X		X	X					
Buxus microphylla / Wintergreen Boxwood	6			4			X			X		X	X					
Camellia japonica / Spring Blooming Camellia	25			9								X	X					
Camellia sasanqua/ Fall Blooming Camellia	25			9								X	X					
Chamaecyparis pisifera / Cypress	16			6		X		X			X				X	X		
Cleyera japonica / Japanese Cleyera	25			9	X	X			X		X	X			X	X	X	
Cotoneaster salicifolius/ Willowleaf Cotoneaster	9			6		X	X			X	X	X			X	X	X	
Cytisus scoparius/ Scotchbroom	16			6		X					X	X			X	X	X	
Elaeagnus angustifolia/ Russian Olive	36			12	X	X			X		X				X	X	X	
Euonymus fortunei/ Wintercreeper Euonymous	6			3		X	X	X		X	X	X	X		X	X	X	X
Euonymus radicans/ Radicans Euonymus	6			3		X	X	X		X	X	X	X		X	X	X	X
Ilex cornuta ‘Burfordii’/ Burford Holly	36			12	X	X			X		X	X	X		X	X	X	
Ilex cornuta ‘Burfordii Nana’/ Dwarf Burford Holly	25			9	X	X			X		X	X	X		X	X	X	
Ilex cornuta ‘Carissa’/ Carissa Holly	16			6		X	X	X		X	X	X	X		X	X	X	
Ilex crenata ‘Compacta’/Compacta Holly	9			6		X	X	X		X		X			X	X		
Ilex crenata ‘Helleri’/ Helleri Holly	9			6		X	X	X		X		X			X	X		
Ilex crenata ‘Nigra’/ Nigra Holly	9			6	X	X				X		X			X	X		
Ilex glabra/ Inkberry	16			6	X	X				X		X	X		X	X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Evergreen Shrubs - Continued																		
Ilex vomitoria ‘Nana’/ Dwarf Yaupon Holly	9			6		X	X	X		X	X	X	X		X	X	X	

Ilex x aquipernyi/ Aquipern Hybrid Holly	16			6	X	X			X		X	X			X	X	X	
Juniperus chinensis/ Chinese Juniper	25			9	X	X			X		X				X	X	X	
Juniperus horizontalis/ Creeping Juniper	9			6		X	X	X		X	X				X	X	X	
Juniperus procumbens/ Japanese Garden Juniper	9			6		X	X	X		X	X				X	X	X	
Ligustrum lucidum	16			6	X	X			X		X							
Loropetalum chinense/ Chinese Fringeflower	16			6	X	X			X							X		
Mahonia bealei/ Leatherleaf Mahonia	16			6		X				X	X	X	X				X	
Myrica cerifera/ Bayberry or Wax Myrtle	36			12	X	X			X		X			X		X		
Nandina domestica/ Nandina	25			9	X	X					X			X	X	X		
Osmanthus heterophyllus/ Holly Osmanthus	25			9	X	X			X		X	X			X	X		
Picea glauca/ Alberta Spruce	6			4		X	X			X		X						X
Pieris japonica/ Japanese Pieris	9			6		X	X			X		X	X				X	
Pittosporum tobira/ Pittosporum	9			6		X	X	X		X		X	X		X	X		
Prunus laurocerasus/ Cherry Laurel	25			9	X	X			X			X			X	X		
Prunus laurocerasus ‘Otto Luyken’/ Cherry Laurel	16			6	X	X	X					X			X	X		
Pyracantha coccinea/ Pyracantha	25			9	X	X									X	X		X
Rhaphiolepis indica/ Indian Hawthorn	9			6		X	X	X		X	X				X	X		
Rhododendron sp./ Azalea	16			6								X	X				X	X
Rosa sp./ Shrub Rose	16			6	X	X					X				X	X		
Thuja occidentalis/ American Arborvitae	16			6	X	X			X		X				X	X		
Viburnum tinus/ Laurustinus	16			6	X	X			X		X	X						
Yucca filamentosa or flaccida/ Yucca	6			4		X	X	X		X	X				X	X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Deciduous Shrubs Botanical / Common Name	Projected 10-Year Cover Area (square feet)			Minimum Planting Area (square feet)	Uses / Placement					Environmental Tolerances							Problems	
					Parking Lot Screen	General Uses	Small Areas	End Island	Screening/Buffering	Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Full Sun	Disease	Insects
	18”																	
Azalea calendulaceae / Flame Azalea	16			9		X						X	X				X	X
Azalea nudiflorum / Pinxter Bloom	16			9		X						X	X				X	X
Berberis thunbergi / Japanese Barberry	25			12	X	X	X	X			X				X	X		
Buddleia davidii / Butterfly-Bush	25			12		X			X		X				X	X		
Chaenomeles lagenaria / Japanese Flowering Quince	25			12		X										X	X	
Clethra alnifolia / Sweet Pepperbush	25			12	X	X						X		X		X		
Cornus sericea / Redosier Dogwood	25			12	X	X			X		X	X				X		
Cotoneaster/ Cotoneaster	16			9		X	X	X		X	X	X				X		
Deutzia gracilis/ Slender Deutzia	9			4		X	X	X		X	X	X				X		
Euonymous alatus ‘Compacta’/ Burning Bush	25			12	X	X			X		X	X				X		
Forsyhia intermedia / Forsythia	25			12	X	X			X		X					X		
Hamamelis mollis / Chinese Witch-Hazel	36			15	X				X		X	X				X		
Hamamelis vernalis / Vernal Witch-Hazel	36			15	X				X		X	X				X		
Hibiscus syriacus hybrids / Rose of Sharon	25			12	X				X		X					X		
Hydrangea macrophylla/ Bigleaf Hydrangea	16			9		X						X	X					
Hydrangea querifolia / Oakleaf Hydrangea	16			9		X						X	X					
Hypericum / St. Johnswort	9			4		X	X	X		X	X					X		
Ilex verticillata / Winter Berry	25			12		X			X		X					X		
Itea virginica/ Virginia Sweetspire	25			12	X	X			X		X	X		X		X		
Spiraea japonica/ Japanese Spirea	16			9		X	X	X		X	X					X		
Spiraea prunifolia / Double Bridal Wreath	25			12	X	X			X		X	X				X		
Spiraea x bumalda/ Bumald Spirea	16			9		X	X	X		X	X					X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Deciduous Shrubs - Continued																		
Viburnum carlesii / Koreanspice Viburnum	25			12	X	X			X			X	X					
Viburnum plicatum / Doublelife Viburnum	36			15	X	X			X			X	X					
Viburnum tinus/ Tinus Viburnum	25			12	X	X			X			X	X					
Weigelia florida / Weigelia	25			12		X			X		X	X				X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Perennials and Ornamental Grasses Botanical / Common Name	Projected 3-Year Cover Area (square feet)			Minimum Planting Area		Uses / Placement					Environmental Tolerances							Problems	
						Parking Lot Screen	General Uses	Small Areas	End Island		Restricted Root Z.	Poor Soil	Partial Shade	Full Shade	Wet Soil	Drought Tolerant	Full Sun	Disease	Insects
	1 gal.			S.F.	Height (feet)														
Perennials:																			
Achillea/ Yarrow	4			4	2		X	X	X		X					X	X		
Astilbe arendsii/ False Spirea	2			3	2		X	X			X		X	X					
Caryopteris x clandonensis/ Blue Mist Spirea	4			6	2		X	X	X		X					X	X		
Coreopsis grandiflora/ Coreopsis	2			4	1.5		X	X	X		X	X				X	X		
Coreopsis verticillata/ Coreopsis	2			4	1.5		X	X	X		X					X	X		
Dianthus gratianopolitanus ‘Baths Pink’/ Bath’s Cheddar Pink	3			4	1		X	X	X		X					X	X		
Dryopteris erythrosora/ Autumn Fern	2			3	2		X	X			X		X	X	X				
Echinacea purpurea/ Purple Coneflower	2			3	2		X	X	X		X		X				X		
Eupatorium/ Joe Pye Weed	4			6	5	X	X				X	X	X		X		X		
Gaillardia grandiflora/ Blanket Flower	3			4	1		X	X	X		X	X				X	X		
Heliopsis helianthoides/ False Sunflower	4			6	3		X				X	X					X		
Hemerocallis/ Daylily	2			4			X	X	X		X	X	X		X	X	X		
Hosta/ Hosta	3			4	3		X	X			X		X	X	X				
Iberis sempervirens/ Candytuft	2			3	1		X	X			X						X		
Iris ensata/ Japanese Iris	3			4	3		X	X			X		X		X		X		
Lavandula angustifolia/ Lavender	3			4	1.5		X	X	X		X					X	X		
Perovskia atriplicifolia/ Russian Sage	4			6	3		X	X	X		X					X	X		
Rudbeckia fulgida/ Black-eyed Susan	4			6	2.5		X	X	X		X	X	X		X	X	X		
Salvia x superba/ Perennial Salvia	3			4	2		X	X	X		X					X	X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

Perennials - Continued																			
Scabiosa columbaria/ Pincushion Flower	2			4	1		X	X	X		X					X	X		
Sedum spectable ‘Autumn Joy’/ Autumn Joy Sedum	4			6	3		X	X	X		X	X	X		X	X	X		
Stachys byzantina/ Lambs Ear	4			6	1		X	X	X		X	X				X	X		
Verbena canadensis/ Verbena	6			6	1		X	X	X		X	X				X	X		
Veronica spicata/ Speedwell	2			3	1		X	X	X		X					X	X		
Veronica x ‘Sunny Border Blue’/ Veronica ‘Sunny Border Blue’	2			3	2		X	X	X		X						X		
Ornamental Grasses:																			
Calamagrostis acutiflora/ Feather Reed Grass	6			9	5	X	X				X	X			X		X		
Chasmanthium latifolium/ Northern Sea Oats	6			9	4	X	X				X		X						
Cortaderia selloana/ Pampas Grass	9			12	6	X	X				X	X				X	X		
Liriope muscari/ Liriope	3			4	1		X	X	X		X	X	X	X	X	X	X		
Miscanthus sinensis / Maiden Grass	9			12	5	X	X				X	X				X	X		
Miscanthus purpurascens/ Miscanthus	9			12	5	X	X				X	X				X	X		
Muhlenbergia capillaris/ Pink Hair Grass	6			9	3		X		X		X						X		
Ophiopogon japonicus	2			3	.5		X	X	X		X	X	X	X			X		
Panicum virgatum/ Switch Grass	6			9	5	X	X				X	X					X		
Pennisetum alopecuroides/ Fountain Grass	6			9	3		X	X	X		X	X	X			X	X		
Phalaris arundinacea/ Ribbon Grass	4			6	3		X	X	X		X				X		X		

This chart may be revised from time to time by the Zoning Administrator to add or delete species or to update other information based on consultation with the Cooperative Extension Agent and/or landscape professionals.

MAP III-2
WATERSHED MANAGEMENT AND PROTECTION AREA

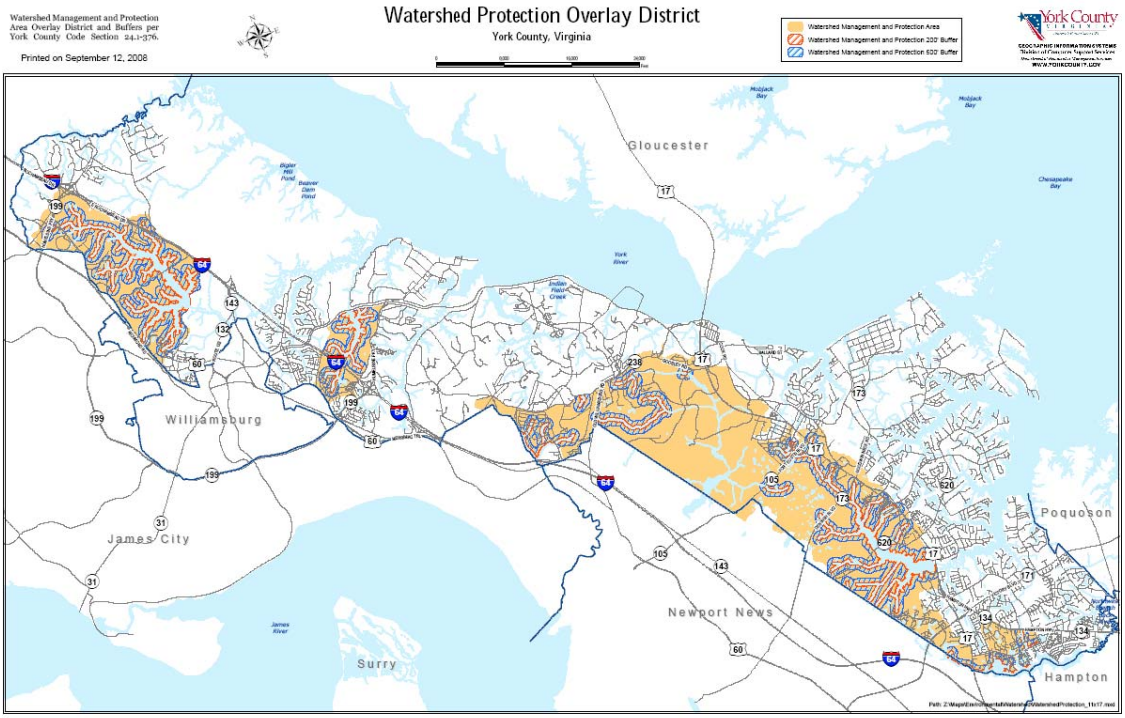
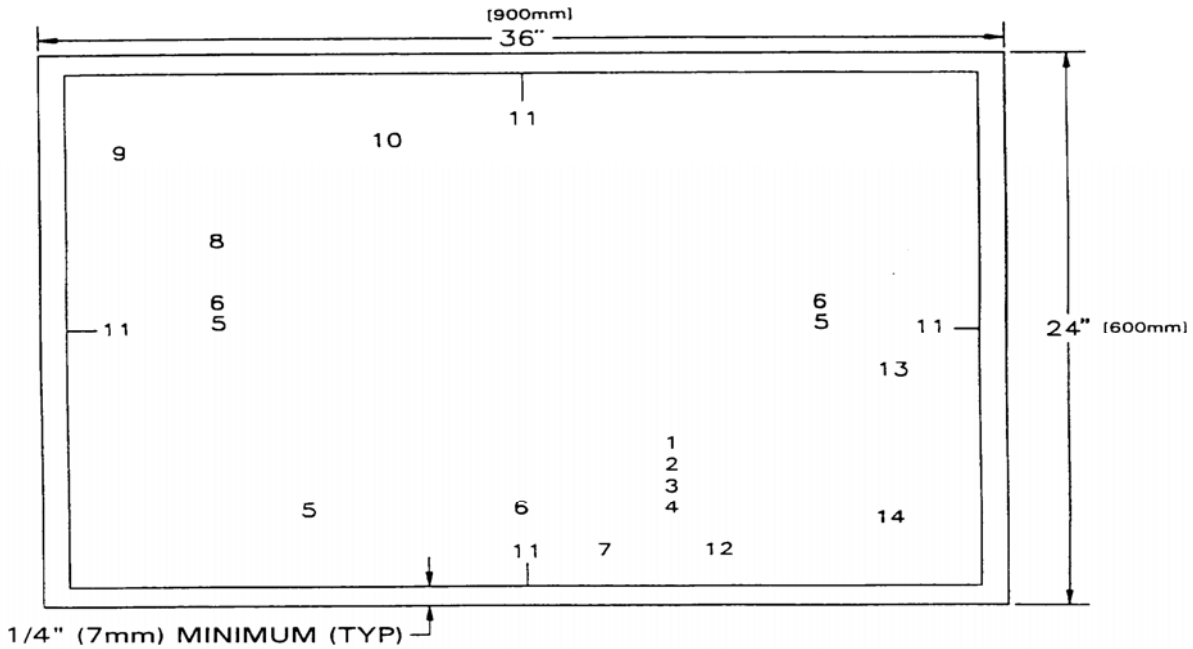


FIGURE V-1
SITE PLAN



NOTES

1. ITEMS 1-4, 8, 9, 11, 12 AND 14 MAY NOT BE RELOCATED ON THE DRAWING.
2. ITEMS 5, 6, 7, 10 AND 13 MAY BE REARRANGED, IF NECESSARY, TO ACCOMMODATE THE BODY OF THE SITE PLAN.
3. ARTICLE V OF THE ZONING ORDINANCE APPLIES TO THE PREPARATION AND SUBMISSION OF THE SITE PLANS.

DRAWING COMPONENT	MINIMUM SIZES		
	Drawing Area	Lettering Height	Line Weight
1. Title (and subdivision section, if applicable)	N/A	30	4
2. Date	N/A	14	1
3. Surveyor/Engineer	N/A	14	1
4. Graphic Scale and Written Scale	N/A	14	1
5. Table of Statistical Data	N/A	14	1
6. Table of Land Use Data	N/A	14	1
7. Surveyor/Engineer Seal	N/A	N/A	N/A
8. Owner (and Subdivider)	N/A	14	1
9. Vicinity Map (1" = 2000') [100mm = 2400m]	4" x 4" [100mm x 100mm]	N/A	N/A
10. North Arrow and Basis	N/A	14	3
11. Center Tick Marks	N/A	N/A	00
12. Number of Sheets	N/A	14	1
13. Index of Sheets	N/A	14	1
14. Clear Area for County Use	4" x 6" [100mm x 150mm]	N/A	N/A

SITE PLAN REVIEW/APPROVAL PROCESS

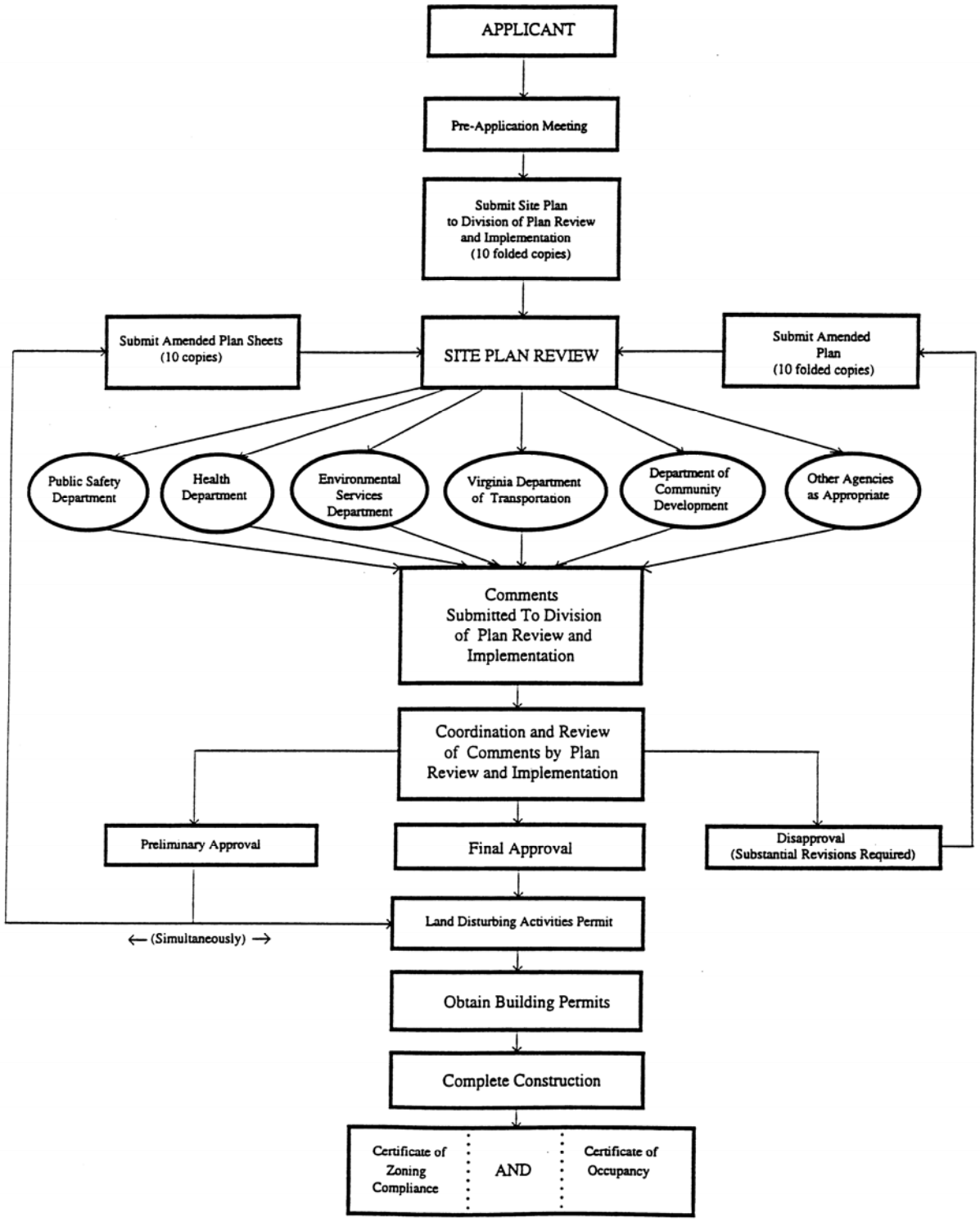


FIGURE VII-1
SIGN TYPES

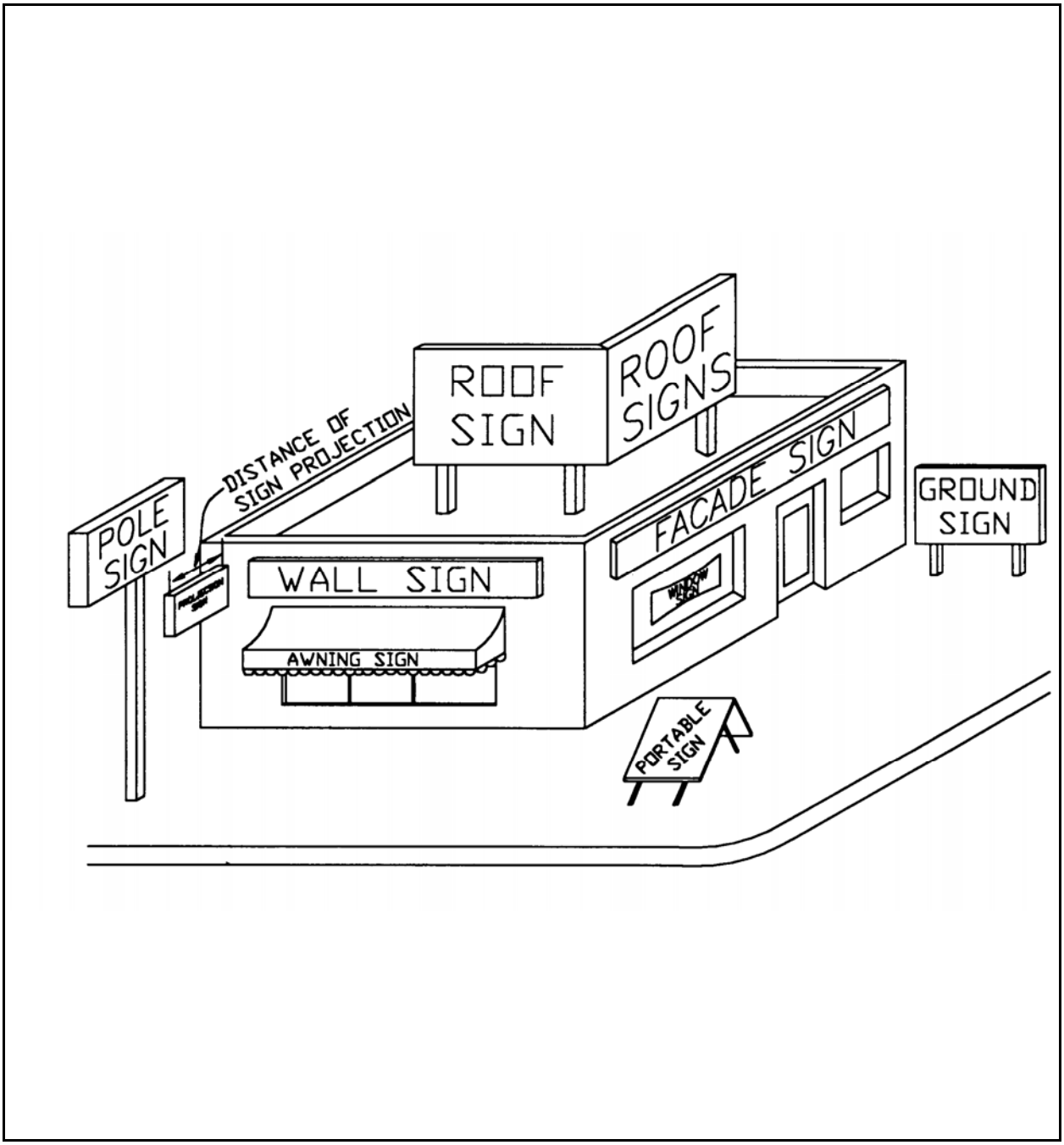
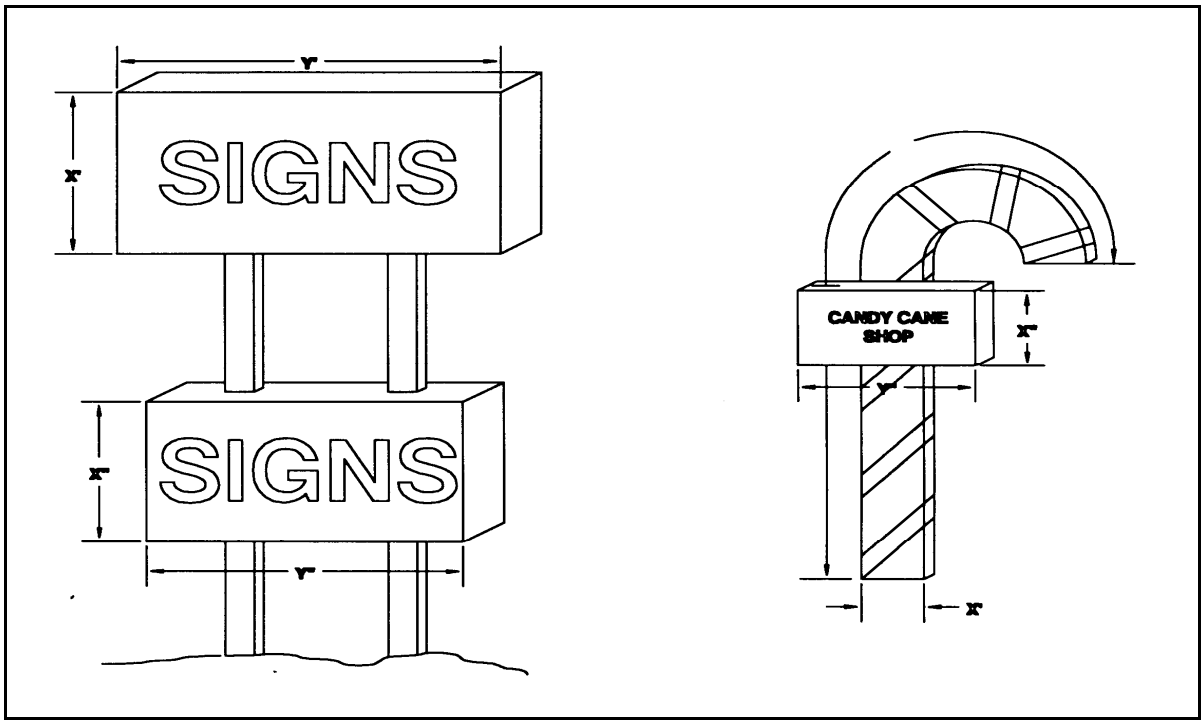
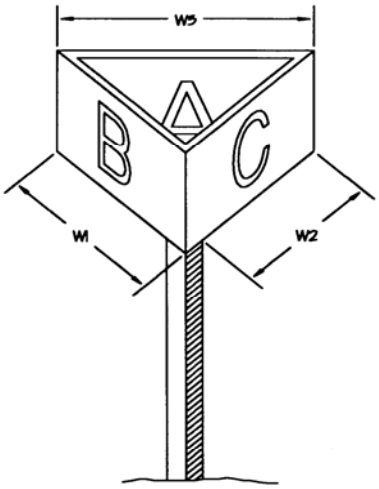
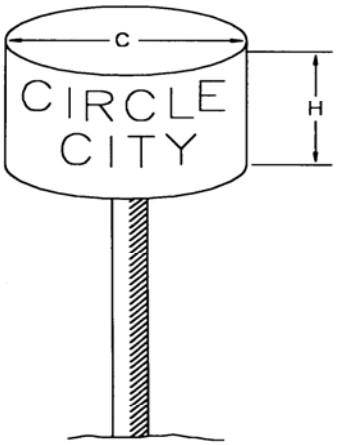


FIGURE VIII-2
SIGN AREA – GROUND





AREA=H*(W1+W2+W3)



AREA=(1/2*C)*H

FIGURE VII-3
SIGN AREA - WALL

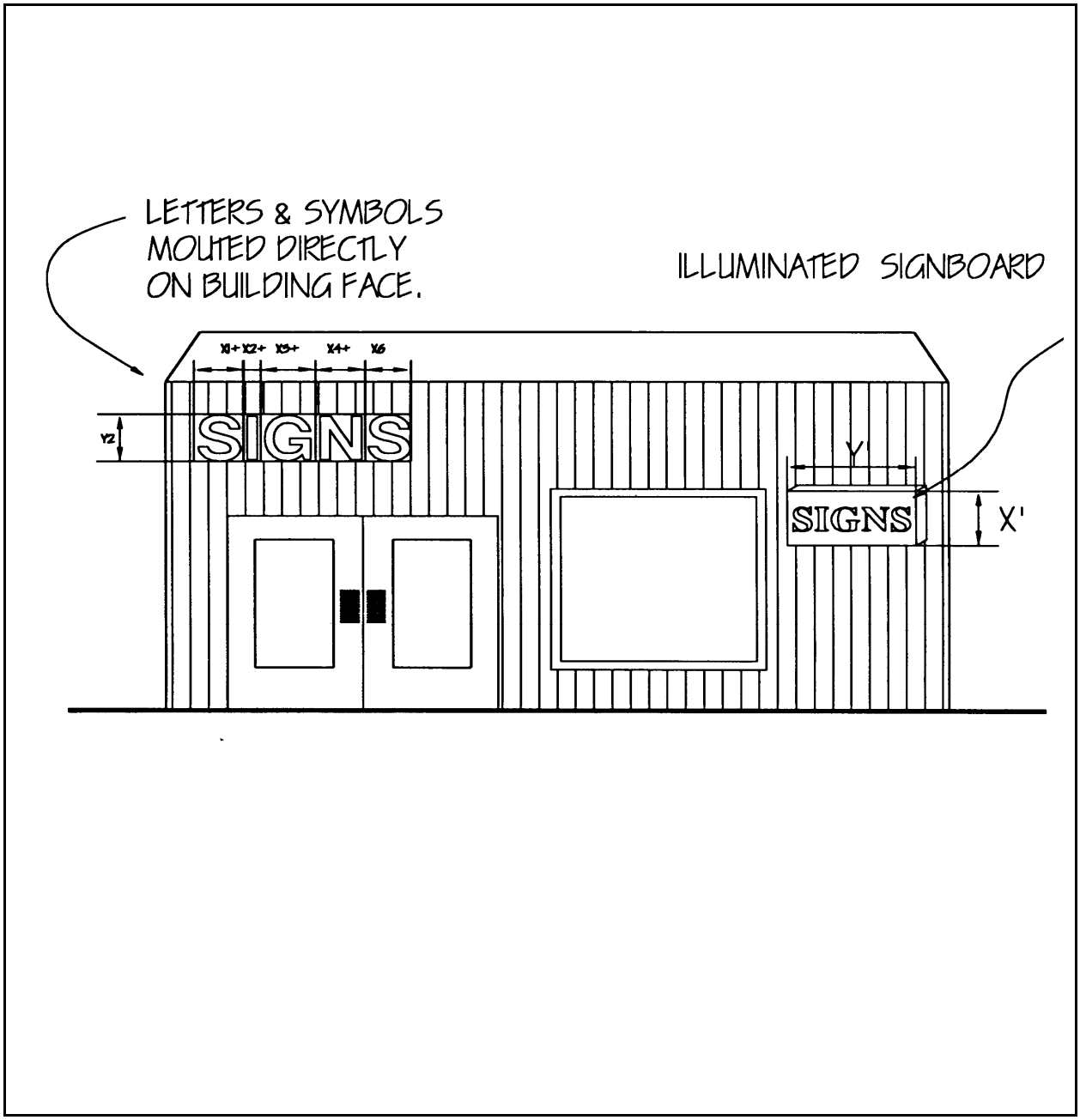
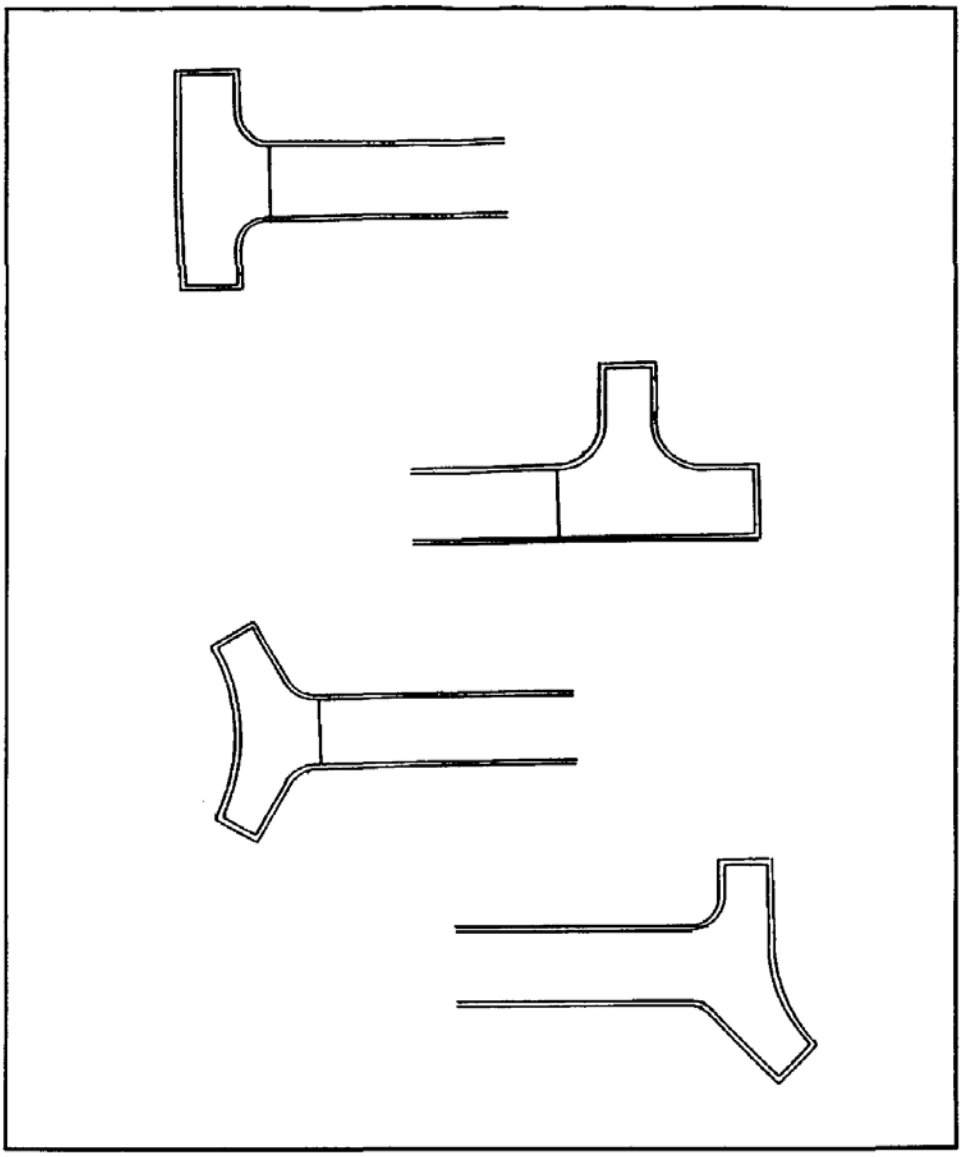


FIGURE VIII-1
ALTERNATIVE TURNAROUND DESIGNS



Note: These designs are provided for illustrative purposes as examples of the types of turnaround designs that <u>may</u>, but not necessarily shall, be considered acceptable as alternatives to conventional cul-de-sacs.

APPENDIX B

SAMPLE AGREEMENTS

NOTE

The following forms are samples only, and may need to be modified for particular projects. Legal counsel should be consulted if modifications are made to the samples, and before they are executed.

COUNTY OF YORK

SAMPLE

COOPERATIVE PARKING AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 20____, by and between _____, hereinafter referred to as the "Owner of the Primary Parcel(s)," and _____, hereinafter referred to as the "Owner of the Secondary Parcel(s)," and York County, Virginia:

WITNESSETH:

WHEREAS, the Owner of the Primary Parcel(s) certifies that he/she/it is/are the record owner(s) of property identified as Official Tax Parcel(s) No. _____ on the records of the Commissioner of the Revenue of York County, and being the same property acquired by the Owner of the Primary Parcel(s) by instrument recorded in the Clerk's Office of the Circuit Court of York County in Deed/Will Book _____, page _____, which property is hereinafter referred to as the "Primary Parcel(s)"; and

WHEREAS, the Owner of the Secondary Parcel(s) certifies that he/she/it is/are the record owner(s) of property identified as Official Tax Parcel(s) No. _____ on the records of the Commissioner of the Revenue of York County, and being the same property acquired by the Owner of the Secondary Parcel(s) by instrument recorded in the Clerk's Office of the Circuit Court of York County in Deed/Will Book _____, page _____, which property is hereinafter referred to as the Secondary Parcel(s)"

NOW, THEREFORE, for and in consideration of the approval of the County of a site plan for the Primary Parcel(s) and the Secondary Parcel(s), and the mutual covenants herein, it is agreed by the parties that:

Pursuant to the terms of Section 24.1-602, York County Code, off-street parking space requirements for the proposed use of the Primary Parcel(s) and the Secondary Parcel(s), are being satisfied through a cooperative parking arrangement whereby provision of such required parking spaces, numbering _____, on the Primary Parcel(s) and numbering _____, on the Secondary Parcel(s), the total of which satisfies the parking requirements for both the Primary Parcel(s) and the Secondary Parcel(s).

The permanent availability of such parking spaces and associated pedestrian access routes for use on the Secondary Parcel(s) in conjunction with the uses conducted on the Primary Parcel(s) and Secondary Parcel(s) has been established by execution of an appropriate legal instrument, recorded in the Clerk's Office of the Circuit Court of York County in Deed Book _____, page _____.

By the signature(s) on this statement, the Owner(s) of the Primary Parcel(s) and the Owner(s) of the Secondary Parcel(s), do hereby acknowledge and agree that should the parking spaces that are the subject of this Agreement become unavailable for use at some future time as a result of a breach in the recorded instrument, or for any other reason, that an equal number of parking spaces shall be constructed and provided either on the Primary Parcel(s) or the Secondary Parcel(s) or through another off-site arrangement. Failure to provide or construct such replacement parking spaces within ninety (90) days, weather permitting, shall be deemed a violation of the County's Zoning Ordinance and shall be punishable in accordance with the penalties provided therein.

The responsibility of complying with these parking requirements shall run with title to the Primary Parcel(s) and the Secondary Parcel(s), and shall not be affected by transfer by lease or of ownership, as long as the use of the Primary Parcel(s) necessitates provision of off-site parking spaces to satisfy the

applicable parking standards specified by the Zoning Ordinance. A recorded statement executed by the County Administrator, indicating that all or a portion of such parking spaces are no longer required, shall be conclusive as to any release from the requirements of this Agreement by the County.

WITNESS the following signatures and seals:

OWNER OF PRIMARY PARCEL(S)

By: _____

Title: _____
(if signing for a corporation or a partnership)

OWNER OF SECONDARY PARCEL(S)

By: _____

Title:_____

(if signing for a corporation or a partnership)

COUNTY OF YORK, VIRGINIA

By:_____
County Administrator

Approved as to form:

_____
County Attorney

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____ whose name as the Owner of the Primary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

SAMPLE

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Secondary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

SAMPLE

COUNTY OF YORK

SAMPLE

POSTPONED SIDEWALK AGREEMENT

THIS AGREEMENT made and entered into this _____ day of_____, 20____, by and between York County, Virginia, hereinafter referred to as the "County" and _____, hereinafter referred to as "Owner" for improvements upon the following described real property located in the County of York, Virginia, hereinafter referred to as "the Property":

Legal description of Property:

_____
_____
_____
_____
_____
_____
_____

WITNESSETH:

WHEREAS, pursuant to the Code of the County of York certain improvements may be required by the County as a requirement of site plan approval to promote and protect the safety and welfare of the citizens of the County; and

WHEREAS, the Owner desires approval of a site plan by the County for a project known as _____ located upon the Property; and

WHEREAS, the Owner agrees that the sidewalks required by the County as a requirement for the site plan is a necessary and proper requirement to promote and protect the safety and welfare of the citizens of the County; and

WHEREAS, the Owner desires to defer the requirement of the construction of sidewalks as shown on the site plan submitted to the County for approval.

NOW, THEREFORE, in consideration of the deferral of the requirement to construct sidewalks prior to the issuance of a Certificate of Occupancy by the County and other good and valuable consideration, the receipt of which is hereby acknowledged, and the mutual covenants set forth herein the parties hereto do mutually agree as follows:

1. The County shall defer the requirement to build sidewalks on the Property as shown on the site plan entitled _____, prepared by _____ dated _____ and required and approved pursuant to the Code of the County of York as a requisite for a Certificate of Occupancy.

2. This Agreement shall run with the title the Property and the Owner and any successor or assign thereof shall construct sidewalks as shown on the approved plans referenced above at such time as sidewalks (i) are constructed on any property adjacent to the Property, or (ii) when directed in writing by the County Administrator of the County or a designee thereof, which at any event will be no later than five (5) years after the date of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year above written.

OWNER(S):

_____
(Typed name)

By:_____
(Signature)

_____
(Typed name)

By:_____
(Signature)

COUNTY OF YORK, VIRGINIA

By:_____
County Administrator

Approved as to form:

_____
County Attorney

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____ whose name as the Owner of the Primary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

SAMPLE

COUNTY OF YORK

S

OFF-SITE PARKING AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 20____, by and between _____, hereinafter referred to as the "Owner of the Primary Parcel(s)," and _____, hereinafter referred to as the "Owner of the Secondary Parcel(s)," and York County, Virginia:

WITNESSETH:

WHEREAS, the Owner of the Primary Parcel(s) certifies that he/she/it is/are the record owner(s) of property identified as Official Tax Parcel(s) No. _____ on the records of the Commissioner of the Revenue of York County, and being the same property acquired by the Owner of the Primary Parcel(s) by instrument recorded in the Clerk's Office of the Circuit Court of York County in Deed/Will Book _____, page _____, which property is hereinafter referred to as the "Primary Parcel(s)"; and

WHEREAS, the Owner of the Secondary Parcel(s) certifies that he/she/it is/are the record owner(s) of property identified as Official Tax Parcel(s) No. _____ on the records of the Commissioner of the Revenue of York County, and being the same property acquired by the Owner of the Secondary Parcel(s) by instrument recorded in the Clerk's Office of the Circuit Court of York County in Deed/Will Book _____, page _____, which property is hereinafter referred to as the "Secondary Parcel(s)."

NOW, THEREFORE, for and in consideration of the approval of the County of a site plan for the Primary Parcel(s), and the mutual covenants herein, it is agreed by the parties that:

Pursuant to the terms of Section 24.1-602, York County Code, off-street parking space requirements for the proposed use of the Primary Parcel(s), are being satisfied through provision of all or a portion of such required parking spaces, numbering _____, on the Secondary Parcel(s).

The permanent availability of such parking spaces and associated pedestrian access routes for use on the Secondary Parcel in conjunction with the uses conducted on the Primary Parcel(s) has been established by execution of an appropriate legal instrument, recorded in the Clerk's Office of the Circuit Court of York County in Deed Book _____, page _____.

By the signature(s) on this statement, the Owner(s) of the Primary Parcel(s), do hereby acknowledge and agree that should the parking spaces on the Secondary Parcel become unavailable for use at some future time as a result of a breach in the recorded instrument, or for any other reason, that an equal number of parking spaces shall be constructed and provided either on the Primary Parcel(s) or through another off-site arrangement. Failure to provide or construct such replacement parking spaces within ninety (90) days, weather permitting, shall be deemed a violation of the County's Zoning Ordinance and shall be punishable in accordance with the penalties provided therein.

The responsibility of complying with these parking requirements shall run with title to the Primary Parcel(s) and the Secondary Parcel(s), and shall not be affected by transfer by lease or of ownership, as long as the use of the Primary Parcel(s) necessitates provision of off-site parking spaces to satisfy the applicable parking standards specified by the Zoning Ordinance. A recorded statement executed by the County Administrator, indicating that all or a portion of such parking spaces are no longer required, shall be conclusive as to any release from the requirements of this Agreement by the County.

WITNESS the following signatures and seals:

OWNER OF PRIMARY PARCEL(S)

By: _____

Title: _____
(if signing for a corporation or a partnership)

OWNER OF SECONDARY PARCEL(S)
By: _____

Title:_____
(if signing for a corporation or a partnership)

COUNTY OF YORK, VIRGINIA

By:_____
County Administrator

Approved as to form:

_____
County Attorney

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Primary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Secondary

SAMPLE

Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

SAMPLE

COUNTY OF YORK

SAMPLE

POSTPONED PAVING AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____, 20___, by and between _____, (list full legal names of <u>all</u> owners of record, state of incorporation if incorporated, type of partnership if a partnership, or marital status if individual) hereinafter referred to as the "Owner", and the COUNTY OF YORK, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County":

WITNESSETH:

WHEREAS, the Owner owns a certain parcel of land located in the County, hereinafter referred to as the "Property", identified as _____; and

WHEREAS, the Property is being developed by the Owner in accordance with the site plan entitled "_____" and approved by the County on _____, 20___; and

WHEREAS, because of weather-related conditions the paving of the required parking lot for the subject development has not been completed; and

WHEREAS, the Owner has completed all other aspects of the development and, in accordance with §24.1-609(D) of the Zoning Ordinance, desires to request a Certificate of Occupancy and to postpone the required paving until favorable weather conditions allow it to be completed; and

WHEREAS, the Owner agrees to construct on or before the _____ day of _____, 20___, the required paving hereinafter referred to as the "Improvements," shown on the approved site plan; and

WHEREAS, the Owner has submitted to the County herewith (circle one of the following) sufficient letter of credit, cash, or a certified check, in the amount of $_____, hereinafter referred to as the "Surety," securing the timely construction and completion of the Improvements and performance of the terms and conditions of this Agreement; and

WHEREAS, the County has agreed that it will approve the Certificate of Occupancy for the development upon the execution of this Agreement and provided that all Code requirements have been met.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The County agrees that, upon proper execution of this Agreement by the Owner and receipt of the Surety and fulfillment of all other Code requirements, it will approve the issuance of a Certificate of Occupancy. If the Surety is a letter of credit, it must be in the form attached as Exhibit A and completed in conformance with the instructions attached thereto, approved by the County Attorney as to form, content and issuing institution, and acceptable as to amount, effective period, and otherwise to the County Administrator. Letters of credit shall be in effect for a minimum period of sixty (60) days beyond the date for completion of the Improvements.

2. The Owner agrees that the Owner will, without cost to the County, on or before the _____ day of _____, 20___, construct and complete the Improvements to the satisfaction of and to the standards and specifications indicated on the approved site plan.

3. The County may enter upon the Property to complete the Improvements and may draw on the Surety in the following events:

   a. The Owner fails to complete the Improvements by the date specified in paragraph 2 above.

   b. The Owner fails to complete by the date specified in paragraph 2 above the Improvements to the satisfaction of and to the standards and specifications indicated on the approved site plan.

   c. The insolvency of, appointment of a receiver for, or the filing of a voluntary or involuntary petition in bankruptcy against or by the Owner.

   d. The commencement of a foreclosure proceeding of a lien against the Property or its conveyance in lieu of foreclosure.

   e. Owner breaches any of the terms and conditions of this Agreement.

4. In the event that the County draws on the Surety, it may use such funds to complete the Improvements or cause them to be completed. The Owner shall be liable to the County for any and all costs of completing the Improvements which shall be in excess of the Surety. It is the purpose and intent of the parties that the amount of the Surety shall have been determined to be sufficient to defray not only the anticipated cost of completing or having completed the Improvements, but also unanticipated cost overruns, the cost incurred by the County in drawing on the Surety, and any and all other reasonable costs which the County has incurred or may conclude, in its sole discretion, are to be incurred.

   The Owner acknowledges and agrees that the County is under no obligation to give any notice to the Owner of its intent to draw on the Surety in any of the events specified in this Agreement.

5. The County shall, upon drawing on the Surety, deposit the same in an interest-bearing account to the extent not needed to cover expenditures made or reasonably anticipated to be made in the near future, but the County shall have no responsibility to deposit or maintain any of such funds in an account at the maximum interest available. Upon completion of the Improvements, as determined by the County, and payment of all expenses incurred by the County in connection therewith, any unexpended funds, including any interest earned thereon, shall be returned to the Owner.

6. The County shall not be liable to the Owner or to any third party for the manner in which the Improvements are completed, any delay in effecting completion, the fact that the cost of completion is in excess of or less than the amount made available by drawing on the Surety or any part thereof, or that the County has drawn down the entire amount of the Surety even though it subsequently develops that the entire amount was not required to carry out the provisions of this Agreement.

7. The Owner acknowledges that the County is under no obligation to extend the time herein provided for completion of the Improvements by the Owner. However, in the event that the County unilaterally agrees in writing to do so, such writing shall, without more and without formal execution of any other agreement by the parties, constitute such an extension, and all of the terms of this Agreement shall continue in effect for the duration of such extension insofar as they are not inconsistent with the terms of the extension; provided, however, that no extension shall be effective until or unless the Owner furnishes to the County a new or amended Surety acceptable to the County if requested by the County. The County may require that the amount of the Surety be increased if an extension is permitted.

SAMPLE

8. It is mutually understood and agreed that if the Owner shall faithfully execute all requirements of this Agreement and all relevant laws and regulations, and shall indemnify, protect and save the County, its officers, agents and employees harmless from all loss, damage, expense or cost by reason of any claim made or suit or action instituted against the County, its officers, agents or employees on account of or in consequence of any such on the part of the Owner, all of which the Owner hereby covenants to do, then the aforementioned Surety shall be released by the County to the Owner; provided, however, that release of the Surety shall not in any way or to any extent release, diminish or otherwise reduce any obligation or liability of the Owner provided in this Agreement.

9. This Agreement shall be binding upon the Owner and the Owner's successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals:

OWNER:

INDIVIDUAL OR INDIVIDUALS

_____(SEAL)

_____(SEAL)

CORPORATION

Attest: By: _____(SEAL)
President (Attach copy of corporate resolution authorizing execution)

_____
Secretary

PARTNERSHIP
By: _____(SEAL)
General Partner

COUNTY OF YORK, Virginia

By _____
County Administrator

Approved as to form:

_____
County Attorney

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Primary Parcel(s) is

SAMPLE

signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

SAMPLE

S

DEVELOPMENT AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 20____, by and between _____, (give full legal name or names, state of incorporation if incorporated, type of partnership if a partnership, or marital status if individual) hereinafter referred to as the "Developer," and the COUNTY OF YORK, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County":

WITNESSETH:

WHEREAS, the Developer is the owner/developer (indicate which) of a certain parcel of land located in the County, bearing Assessor's Parcel Number(s) _____ hereinafter referred to as the "Property"; and

WHEREAS, the Property is being developed by the Developer into a project known as "_____", and the Developer has caused a site plan, dated _____, 20___, to be prepared by _____, which plan was approved by the County on _____, 20___; and

WHEREAS, the Developer agrees to construct in accordance with all County requirements on or before the _____ day of _____, 20____, all physical improvements, hereinafter referred to as the "Improvements", shown on the above-described site plan, and such other plans and specifications for development of the project as have been approved by the County, all of which documents are on file in the County, are incorporated by reference, and are hereinafter collectively referred to as the "Plans"; and

WHEREAS, the Developer has submitted to the County herewith (circle one of the following) sufficient letter of credit, cash, or a certified check, in the amount of $_____, hereinafter referred to as the "Surety", securing the timely construction and completion of the Improvements and performance of the terms and conditions of this Agreement; and

WHEREAS, the County has agreed that it will issue building permits for the said development upon execution of this Agreement and submission to the County of the Surety.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The County agrees that, upon proper execution of this Agreement by the Developer and receipt of the Surety, it will issue building permits for the work to be undertaken pursuant to the Plans. If the Surety is a letter of credit, it must be in the form attached as Exhibit A and completed in conformance with the instructions attached thereto, approved by the County Attorney as to form, content and issuing institution, and acceptable as to amount, effective period, and otherwise to the County Administrator. Letters of credit shall be in effect for a minimum period of sixty (60) days beyond the date for completion of the Improvements.

2. The Developer agrees that the Developer will, without cost to the County, on or before the _____ day of _____, 20___, construct and complete the Improvements to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Improvements, including, but without limitation, the Virginia Department of Transportation. Developer shall not occupy or permit to be occupied the Property until the Improvements are completed.

3. The County may enter upon the Property to complete the Improvements and may draw on the Surety in the following events:

   a. The Developer fails to complete the Improvements by the date specified in paragraph 2 above.

   b. The Developer fails to complete by the date specified in paragraph 2 above the Improvements to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Improvements, including but without limitation, the Virginia Department of Transportation.

   c. The Developer fails to commence construction of the Improvements at least ____ days prior to the date specified in paragraph 2 above.

   d. The insolvency of, appointment of a receiver for, or the filing of a voluntary or involuntary petition in bankruptcy against or by the Developer.

   e. The commencement of a foreclosure proceeding of a lien against the Property or its conveyance in lieu of foreclosure.

   f. Developer breaches any of the terms and conditions of this Agreement.

4. In the event that the County draws on the Surety, it may use such funds to complete the Improvements or cause them to be completed. The Developer shall be liable to the County for any and all costs of completing the Improvements which shall be in excess of the Surety. It is the purpose and intent of the parties that the amount of the Surety shall have been determined to be sufficient to defray not only the anticipated cost of completing or having completed the Improvements but also unanticipated cost overruns, the cost incurred by the County in drawing on the Surety, an administrative fee in the amount of $5,000.00, or five (5) percent of the amount of the cost of completing the Improvements, whichever sum is greater, and any and all other reasonable costs which the County has incurred or may conclude, in its sole discretion, are to be incurred. The Developer hereby acknowledges that an administrative fee in the above amount is reasonable compensation to the County for its costs in drawing on the Surety and, when necessary, causing the Improvements to be completed.

   The Developer acknowledges and agrees that the County is under no obligation to give any notice to the Developer of its intent to draw on the Surety in any of the events specified in this Agreement.

5. The County shall, upon drawing on the Surety, deposit the same in an interest-bearing account to the extent not needed to cover expenditures made or reasonably anticipated to be made in the near future, but the County shall have no responsibility to deposit or maintain any of such funds in an account at the maximum interest available. Upon completion of the Improvements, as determined by the County, and payment of all expenses incurred by the County in connection therewith, any unexpended funds, including any interest earned thereon, shall be returned to the Developer.

6. The County shall not be liable to the Developer or to any third party for the manner in which the Improvements are completed, any delay in effecting completion, the fact that the cost of completion is in excess of or less than the amount made available by drawing on the Surety or any part thereof, or that the County has drawn down the entire amount of the Surety even though it subsequently develops that the entire amount was not required to carry out the provisions of this Agreement.

SAMPLE

7. The Developer acknowledges that the County is under no obligation to extend the time herein provided for completion of the Improvements by the Developer. However, in the event that the County unilaterally agrees in writing to do so, such writing shall, without more and without formal execution of any other agreement by the parties, constitute such an extension, and all of the terms of this Agreement shall continue in effect for the duration of such extension insofar as they are not inconsistent with the terms of the extension; provided, however, that no extension shall be effective until or unless the Developer furnishes to the County a new or amended Surety acceptable to the County if requested by the County. The County may require that the amount of the Surety be increased if an extension is permitted.

8. It is mutually understood and agreed that if the Developer shall faithfully execute all requirements of this Agreement and all relevant laws and regulations, and shall indemnify, protect and save the County, its officers, agents and employees harmless from all loss, damage, expense or cost by reason of any claim made or suit or action instituted against the County, its officers, agents or employees on account of or in consequence of any breach on the part of the Developer, all of which the Developer hereby covenants to do, then the aforementioned Surety shall be released by the County to the Developer; provided, however, that release of the Surety shall not in any way or to any extent release, diminish or otherwise reduce any obligation or liability of the Developer provided in this Agreement.

9. The Developer does further hereby agree to indemnify, protect and save the County, its officers, agents, and employees harmless from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the Plans until such time as the said streets, utilities and public easements shall be accepted as a part of the County's systems, or those of its agencies, or the State System of Secondary Highways, as the case may be.

10. It is mutually understood and agreed that approval of the Plans shall not, by such approval alone, be deemed to be an acceptance by the County or other applicable agency of any street, alley, public space, sewer or other physical improvements shown on the Plans for maintenance, repair or operation thereof, and that the Developer shall be fully responsible therefor and assume all of the risks and liabilities therefor, until such time as the County or other applicable agency has formally accepted them. Upon acceptance of any of the improvements to be dedicated to the County, Developer agrees to execute a maintenance and indemnifying bond, guaranteeing the materials and workmanship of the improvements for one year, which bond shall also be executed by corporate surety.

11. The Developer shall, with regard to any Improvement to be conveyed to the County or any agency thereof:

    a. When requested by the County, furnish the County permanent, blackline, reproducible "as built" drawings of such Improvement on 0.003 inch polyester film, in a form satisfactory to the County; and

    b. Notify the County prior to the conduct of any required test or final inspections of the Improvement; and

    c. Furnish, through Developer's engineer, test reports prepared by an independent testing laboratory in accordance with the ACI Code for any structural concrete installed in the subdivision, and furnish a manufacturer's certification that all pipe installed in the subdivision meets applicable ASTM specifications; and

    d. Be responsible for and bear all costs imposed upon the County by the Virginia Department of Transportation for inspections and/or testing of any roadway, drainageway or other facility shown on the Plans to be accepted by such Department.

SAMPLE

12. This Agreement shall be binding upon the Developer and the Developer's successors and assigns.

IN WITNESS WHEREOF the parties hereto have affixed their signatures and seals:

DEVELOPER:

INDIVIDUAL OR INDIVIDUALS

_____(SEAL)

_____(SEAL)

CORPORATION

Attest:

By: _____ _____(SEAL)
President
(Attach copy of corporate resolution authorizing execution)

_____
Secretary

PARTNERSHIP

By: _____(SEAL)
General Partner

COUNTY OF YORK, Virginia

By:_____
County Administrator

Approved as to form:

_____
County Attorney

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Primary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the _____ day of _____, 20_____.

_____
Notary Public

My commission expires: _____

SAMPLE

(PUT ON BANK LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT NO. (1)

_____(2)_____

County of York
c/o Neil A. Morgan
County Administrator
P. O. Box 532
Yorktown, Virginia 23690

Re: _____(3)_____ _____(13)_____

Gentlemen:

We hereby establish our Irrevocable Letter of Credit No. __(1)__ in your favor, for the account of _____(3)_____, available by your drafts drawn at sight on us up to the aggregate amount of _____(4)_____, each such draft accompanied by the following document:

Your written statement certifying that _____(3)_____ has defaulted in the performance of the terms and conditions of ____(5)____ Agreement with you, dated the __(6)__ day of __(6)__, 20__(6)__, and that you are, in consequence, entitled to the amount of the accompanying draft.

All drafts drawn under this letter of credit must be marked "Drawn under __(7)__Letter of Credit No. __(1)__ dated __(2)__."

This credit is valid until _____(8)_____ and drafts drawn hereunder, if accompanied by document as specified above, will be honored if presented on or before that date to _____(9)_____ at___ __(10)_____ or, if said bank is not doing business at that address, then to any other address or location of said bank or its successor.

Except as otherwise expressly stated herein, this credit is subject to the "Uniform Customs and Practice for Documentary Credits," fixed by International Chamber of Commerce Publication No. 400, 1983 revision.

Very truly yours,

_____

By:_____

SAMPLE

(1) Number assigned to letter of credit by bank.

(2) Date issued.

(3) Name of person, corporation, or partnership submitting letter of credit.

(4) Amount of letter of credit written in words and numerals; i.e., fifty thousand and no/100 dollars ($50,000.00).

(5) Insert "his," "her," "its" or "their," as appropriate.

(6) Date shown on agreement.

(7) Name of bank.

(8) Expiration date of letter of credit.

(9) Name and address of bank.

(10) Address of bank or branch thereof where letter of credit is to be presented. No letter of credit will be acceptable unless it may be presented at a bank office in the Hampton Roads or Richmond metropolitan areas.

(11) Signature of authorized officer of bank.

(12) Title of authorized officer of bank.

(13) Name of project.

(Ord. No. 08-17(R), 3/17/09)

SAMPLE

COUNTY OF YORK

SAMPLE

REQUIRED PARKING WAIVER AGREEMENT

THIS AGREEMENT made and entered into this the ____ day of _____, 20___, by and between _____, hereinafter referred to as the "Owner," and the COUNTY OF YORK, Virginia, hereinafter the "County":

WITNESSETH:

WHEREAS, the Owner certifies that he/she/it is/are the record owner(s) of land identified as Parcel(s) _____ on the records of the Commissioner of the Revenue of York County, and being the same land acquired by the Owner as evidenced by _____ (deed, will) duly recorded in the Clerk's Office of the Circuit Court of York County in _____ Book _____, page ____, hereinafter referred to as the "Property."

NOW, THEREFORE, for and in consideration of the approval of the Owner's site plan, and the mutual covenants herein, it is agreed by the parties hereto that:

Pursuant to the terms of §§ 24.1-255 or 24.1-606 York County Code, off-street parking space requirements for the Property are hereby waived to the extent that ____ of the _____ total required parking spaces need not be constructed prior to issuance of a Certificate of Occupancy.

The area which such spaces would otherwise occupy as shown on the approved site plan, dated _____, shall be reserved for their future construction should the parking demand characteristics of the proposed or any other use, as determined by the Zoning Administrator, increase to the extent that the available spaces are no longer adequate. Monitoring and determination of the adequacy of the existing parking spaces shall be the responsibility of the Zoning Administrator. Upon determining that parking demand is in excess of the available supply of spaces, the Zoning Administrator shall order, in writing, the construction of such additional spaces, up to the minimum required by the County Code in effect on the date of this agreement, as are necessary to accommodate the demand. Failure to comply with the Zoning Administrator's order to construct such area within ninety (90) days, weather permitting, shall be deemed a violation of the County Code and shall be punishable in accordance with the penalties prescribed therein.

The responsibility to comply with these requirements shall run with title to the Property and shall not be affected by transfer of lease or ownership as long as the waiver herein described is applicable to the Property or any part thereof. A recorded statement executed by the Zoning Administrator, indicating that such waiver is no longer applicable, shall be conclusive as to its content insofar as record title to the Property may be affected.

WITNESS the following signatures and seals:

OWNER

By: _____

Title: _____
(If signing for a corporation or a partnership)

COUNTY OF YORK, VIRGINIA

By: _____
County Administrator

Approved as to form:

_____
County Attorney

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, whose commission expires on the ____ day of _____, 20___, do hereby certify that _____, whose name is signed to the foregoing agreement bearing date of the ____ day of _____, 20___, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the ___ day of _____, 20___.

_____
Notary Public

My Commission expires: _____

COMMONWEALTH OF VIRGINIA
County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, whose commission expires on the ____ day of _____, 20___, do hereby certify that Neil. A. Morgan, County Administrator, whose name is signed to the foregoing agreement bearing date of the ____ day of _____, 20___, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the ___ day of _____, 20___.

_____
Notary Public

My Commission expires: _____

SAMPLE

COUNTY OF YORK

SAMPLE

DEED OF EASEMENT

THIS DEED OF EASEMENT made and entered into this ____ day of _____, 20__, by and between _____, hereinafter referred to as "Landowner," and the County of York, Virginia, hereinafter referred to as "County":

WITNESSETH :

That for and in consideration of Ten Dollars ($10.00) cash in hand paid to the Landowner by the County and other good and valuable consideration, the receipt of which is hereby acknowledged, the Landowner does hereby grant and convey with General Warranty to the County and its successors and assigns forever the following property:

Exclusive permanent drainage and utility easements (the singular term "easement" when used hereinafter to include the plural if applicable) for the installation, maintenance, operation, and repair of drainage facilities and of utility lines, pipes, and facilities connected therewith, which easements are beneath, upon, and over strips of land, in varying widths, which are shown and designated on a certain plat, entitled "_____, COUNTY OF YORK, VIRGINIA," dated _____, and made by _____, and to be recorded simultaneously herewith in the Clerk's Office of the Circuit Court of York County, Virginia, to which plat reference is hereby made for a more particular description of the easements hereby conveyed.
Landowner further understands and agrees as follows:

1. All facilities, public works, and appurtenances which are installed in or on said property now or in the future by or for the County shall be and remain the property of the County and no charge shall at any time be made by the Landowner for the use of the property occupied by the County or for the privilege of constructing, maintaining and operating said facilities and the necessary or appropriate appurtenances.

2. The County and its agents and employees for the purpose of inspecting, maintaining or operating its facilities shall have the right and easement of ingress and egress over any lands of the Landowner adjacent to the described easement between any public or private roads and the described easement in such manner as shall occasion the least practicable damage and inconvenience to Landowner.

3. The County shall have the right to inspect, rebuild, repair, change, alter and install such additional or substitute lines or facilities within the easement herein granted as the County may from time to time deem advisable or expedient, and shall have such rights and privileges as may be reasonably necessary for the full enjoyment or use for any of the aforesaid purposes of the easement and rights herein granted.

4. The County shall have the right to trim, cut, and remove all trees, limbs, undergrowth, shrubbery, landscape plantings of any kind, fences, buildings, structures, paving, or other obstructions or facilities within said easement which it deems in any way to interfere with the proper and efficient construction, operation, and maintenance of the facilities in or on said easement.

5. The County shall repair or replace only ground cover now on the said easement which may be disturbed, damaged, or removed as a result of the construction of any of the County's facilities, shall remove all trash and other debris of construction or repair from the easement, and shall restore the surface thereof to its original condition as nearly as reasonably possible, all subject, however, to this exception, to-wit: that the County shall not be so obligated when it would be inconsistent with the proper operation, maintenance or use of its facilities.

6. Landowner reserves the right to make use of the land subject to the rights herein granted, which use shall not be inconsistent with the rights herein conveyed or interfere with the use of the said easement by the County for the purposes aforesaid; provided, however, that all such use shall be at Landowner's risk unless

prior written approval of County is obtained and provided further that this paragraph shall not apply to property conveyed in fee simple.

7. Whether or not the easement herein conveyed is exclusive, no other party shall be granted the right to use or shall use any part of the area within such easement for any purpose or in any manner until after a review and a finding by the County in writing that such use will not be in conflict with, or inconvenient to, the County's use thereof or the purpose for which such easement was granted.

8. Nothing herein shall be deemed to prohibit the placement of structures including fences within the easement by property owners of the underlying fee without prior approval of the County; provided that any such improvements shall be placed at the risk of the property owner and the County shall have the right to remove any such improvements should they interfere with the rights granted the County herein; and further provided that any such improvements shall be in conformance with all other County ordinances.

9. Landowner has seen and carefully examined a copy of the hereinabove-described plat, is entirely familiar with the quantity of the land covered by this conveyance, and fully understands the effect that it will or might have on the value of the remaining property.

10. Any easement or right granted the County hereunder is intended to be and shall be usable by and for the benefit of the County as such and also any sanitary district, authority, or any other County agency or entity operated solely or partially for the benefit of the citizens of York County or any portion thereof, which such other agency or entity shall enjoy all of the privileges herein granted to the County as such.

11. The County may from time to time grant the right to others to locate facilities serving the public within the easement hereby conveyed, including but not limited to electric, telephone or gas utility facilities.

That this instrument covers all the agreements between the parties and no representations or statements, verbal or written, have been made which are inconsistent with the terms of this deed.

WITNESS the following signatures and seals:

By: _____

Title: _____

SAMPLE

COMMONWEALTH OF VIRGINIA
County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name is signed to the foregoing deed, bearing date of the ____ day of _____, 20__, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand this ____ day of _____, 20__.

_____
Notary Public

My commission expires: _____

Approved as to form:

_____
County Attorney

The County of York, Virginia, acting by and through its County Administrator, he being thereto duly authorized by Resolution No. R89-28, adopted by the York County Board of Supervisors on the 19th day of January, 1989, does hereby accept the conveyance of the interest in real estate made by this deed.

COUNTY OF YORK, VIRGINIA

By:_____
County Administrator

COMMONWEALTH OF VIRGINIA
County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that Neil A. Morgan, County Administrator, whose name is signed to the foregoing deed, bearing date of the ____ day of _____, 20__, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand this ____ day of _____, 20__.

_____
Notary Public

My commission expires: _____

SAMPLE

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