Chapter 1
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Chapter 1
GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated The Code of the County of Fluvanna, Virginia, and may be so cited. These ordinances may also be cited as The Fluvanna County Code. (Comp. 1974, §1 - 1) (Ord. 11-18-15)

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

In the interpretation and construction of this Code and of all ordinances of the county, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the board of supervisors or the context clearly requires otherwise:

Board of supervisors; board. Whenever the term "board of supervisors" or "board" is used, it shall be construed to mean the board of supervisors of the County of Fluvanna.[2]

Code of Virginia. The words "Code of Virginia" shall mean the Code of Virginia of 1950, as amended.

Commonwealth; state. The words "the commonwealth," "this commonwealth," "the state" or "this state" shall mean the Commonwealth of Virginia.

Computation of time.[3] The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded.

County. The words "the county" or "this county" shall mean the County of Fluvanna in the Commonwealth of Virginia.

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[1] For state law as to authority of board of supervisors to codify its ordinances and admissibility of Code in evidence, see Code of Va., §15.2-1433.

[2] For similar state law, see Code of Va., §§ 15.2-604, 15.2-1201.

[3] For state law as to computation of time within the meaning of state statutes, see Code of Va., § 1-210.

County administrator. The term "county administrator" shall mean the county administrator of Fluvanna County.

Following. The word "following," when used by way of reference to any section or sections in this Code, shall be construed to mean next following that in which such reference is made.

Gender.[4] A word importing the masculine gender only may extend and be applied to females and to corporations as well as to males.

Governing body. Whenever the term “governing body” is used, it shall be construed to mean the board of supervisors of the County of Fluvanna.

Month.[5] Unless otherwise expressed, the word "month" shall be construed to mean a calendar month.

Number.[6] A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; 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.[7] 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.

Occupant. The word "occupant," applied to a building or land, shall mean any person who holds a written or oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

Official time standard.[8] Whenever particular hours are specified in this Code relating to the time within any such act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the county.

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[4] For similar state law, see Code of Va., § 1-216.

[5] For similar state law, see Code of Va., § 1-223.

[6] For similar state law, see Code of Va., § 1-227.

[7] For similar state law, see Code of Va., § 1-228.

[8] For similar state law, see Code of Va., § 1-253.

Or; and. "Or" may be read as "and," and "and" may be read as "or," if the sense so requires.

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

Person.[9] The word "person" shall include any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

Preceding. The word "preceding," when used by way of reference to any section or sections in this Code, shall be construed to mean next preceding that in which such reference is made.

Property. The word "property," shall mean real, personal or mixed property.

Public grounds. The words "public grounds" shall mean the parks and all public lands owned by the county, and those parts of public places which do not form travelled parts of streets as defined in this section.

Road; highway. The words "road" and "highway" shall have the same meaning as the word "street" as such word is defined in this section.

Shall; may. The word "shall" shall be mandatory; the word "may" is permissive.

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.

State. See "commonwealth" defined above in this section.

Street. The word "street" shall include 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.

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[9] For state law as to definition of "person" as used in statutes, see Code of Va., §§ 1-230, 231.

Swear; sworn.[10] The word "swear" or "sworn" shall be equivalent to the words "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; in writing.[11] The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words, letters and figures.

Year.[12] The word "year" shall mean a calendar year.

All words, terms, etc., not defined in this section or elsewhere in this Code shall be construed as provided in the Code of Virginia.[13] (Comp. 1974, § 1-3) (Ord. 11-18-15)

Sec. 1-3. Catchlines of sections.[14]

The catchlines of the sections of this Code are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Comp. 1974, § 1-3) (Ord. 11-18-15)

Sec. 1-4. Severability of parts of Code.[15]

If any part, section, subsection, sentence, clause or phrase of this Code or its application to any persons or circumstances is for any reason held to be unconstitutional or invalid by the final judgement or decree of a court of competent jurisdiction, such decision shall not affect the constitutionality or validity of the remainder of this Code or other

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[10] For similar state law, see Code of Va., § 1-250.

[11] For similar state law, see Code of Va., § 1-257.

[12] For similar state law, see Code of Va., § 1-223.

[13] For rules of construction of state statutes, see Code of Va., § 1-220 et seq.

[14] For similar state law as to sections of the Code of Virginia, see Code of Va., § 1-217.

[15] For state law as to severability of statutes, see Code of Va., § 1-243.

applications thereof. (Comp. 1974, § 1-4) (Ord. 11-18-15).

Sec. 1-5. Liability of corporations, etc., and agents for violations.

Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person. (Comp. 1974, § 1-5)

Sec. 1-6. Common law as to misdemeanors.[16]

The common law of England with respect to misdemeanors insofar as it is not repugnant to the principles of the Bill of Rights, the constitution and laws of the commonwealth and the ordinances of the county, shall continue in full force within the county, and be the rule of decision, except as altered by the general assembly of the commonwealth or by the board of supervisors. (Comp. 1974, § 1-6) (Ord. 11-18-15).

Sec. 1-7. Construction in event of conflict between provisions of Code, etc.

Except as otherwise provided, in the event of conflict between provisions of this Code, or between provisions of this Code and other ordinances of the county, or between provisions of ordinances of the county, the more stringent provision shall be construed to control. (Comp. 1974, § 1-7)

Sec. 1-8. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same in substance as those of the ordinances included herein shall be considered as continuations thereof and not as new enactments. (Comp. 1974, § 1-8)

Sec. 1-9. Repeal not to revive former ordinances.[17]

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[16] For state law as to continuation of common law of England within the commonwealth, see Code of Va., §§ 1-200, 201.

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect. (Comp. 1974, § 1-9) (Ord. 11-18-15)

Sec. 1-9.1. Repeal not to affect liabilities; mitigation of punishment.[18]

No new act of the Board shall be construed to repeal a former ordinance, as to any offense committed against the former ordinance, or as to any act done, any penalty, forfeiture, or punishment incurred, or any right accrued, or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new act of the Board takes effect; except that the proceedings thereafter held shall conform, so far as practicable, to the ordinances in force at the time of such proceedings; and if any penalty, forfeiture, or punishment be mitigated by any provision of the new act of the Board, such provision may, with the consent of the party affected, be applied to any judgment pronounced after the new act of the Board takes effect. (Ord. 11-18-15)

Sec. 1-10. General penalty; continuing violations.[19]

(A) Wherever in this Code or in any ordinance or resolution of the county, or in any rule, regulation, notice or order promulgated by any officer or agency of the county under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure, neglect or refusal to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation, notice or order shall be punished as if such violation were a class 1 misdemeanor, provided, that the penalty for such violation shall not exceed the penalty prescribed by the Code of Virginia for like offenses.

(B) Each day any violation of this Code or any ordinance, resolution, rule, regulation, notice or order shall continue shall constitute a separate offense except as otherwise provided.

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[17] For similar state law applicable to statutes, see Code of Va., § 1-240.

[18] For similar state law, see Code of Va., § 1-239.

[19] For state law as to authority of board of supervisors to prescribe fines and imprisonment for violations of ordinances, see Code of Va., § 15.2-1429; as to punishment for conviction of misdemeanors, see Code of Va., § 18.2-11.

(Ord. 11-18-15)

Sec. 1-11. Miscellaneous ordinances and resolutions not affected by Code.

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

(1) Promising or guaranteeing the payment of money by or for the county or authorizing the issuance of any bonds or any evidence of indebtedness;

(2) Authorizing or otherwise relating to any agreement, contract or obligation assumed by the county;

(3) Granting any franchise or right;

(4) Appropriating funds or relating to salaries of officers or employees or an annual tax levy or budget;

(5) Establishing magisterial districts or sanitary districts;

(6) Relating to the school board;

(7) Authorizing, providing for or otherwise relating to any particular street, alley or other public improvement;

(8) Relating to annexations by municipalities;

(9) Making any assessment;

(10) Relating to affirmative action and other personnel policies consistent with this Code;

(11) Relating to accounting procedures;

(12) Designating certain roads and streets as highways for law enforcement purposes;

(13) Adopting or amending a comprehensive plan;

(14) Establishing articles of incorporation or bylaws for any legal entity;

(15) The purposes of which have been accomplished;

(16) Which is temporary, although general in effect; or

(17) Which is special, although permanent in effect;

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

Sec. 1-12. Supplementation of Code.[20]

(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. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement. Where replacement pages are prepared, a distinguishing mark or notation shall be placed on each replacement page to distinguish it from original pages and pages of other supplements.

(B) In the preparation of 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 titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

[20] For general law as to supplementation of codification of ordinances, see Code of Va., § 15.2-1433.

(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 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.

(Ord. 11-18-15)

Chapter 2
ADMINISTRATION

Article 1. In General.

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Chapter 2
ADMINISTRATION

Article 1. In General.[1]

Sec. 2-1-1. Magisterial districts described.[2]

BY VIRTUE of certain commissions issued by Gilbert C. Walker, Governor of Virginia, on the 9th of April, 1870, in pursuance of authority in him vested by the Act of the General Assembly of Virginia entitled "An act to provide for dividing the several counties of the State into "Townships" approved April 2, 1870, we the undersigned commissioners named in said commissions thereby appointed to lay off into townships the County of Fluvanna in said State and to perform all other duties imposed and prescribed by said Act do respectfully report:

That we met at Palmyra in said County on the 19th day of April, 1870, and proceeded at once to divide and lay off the County of Fluvanna into four townships the number we deem necessary and as compact and as near equal in territory and population as practicable. The County is divided by the Rivanna River into nearly equal parts and James River is the Boundary line on the South. That part of the County lying between the said Rivers we have divided into two townships by a line commencing at the Middleton Mills on James River and extending along the road leading from that point to Central Plains and thence along the road leading by the residence of the late Capt. John Noel by Richardson's Shop and by Solitude Mills to the Palmyra Bridge over the Rivanna River and we make the public highways above designated the boundary line between said two townships. The township of Fork Union in the County of Fluvanna and it will embrace all the territory between the said dividing line and the said two rivers; The township lying west of said line we designate as the township of Cunningham in the County of Fluvanna and it will embrace all the balance of the territory of said county lying on the south side of the Rivanna. The section of the public highways, lying between the Middleton Mills and the residence of the late Capt. John Noel aforesaid shall belong to the Township of Fork Union and the balance of said highways to the Township of Cunningham.

That section of the county lying on the North side of the Rivanna we have divided into two Townships by a line commencing on the Rivanna at the mouth of Long Island Creek and

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[1] For Virginia Freedom of Information Act, see Code of Va., § 2.2-3700 et seq; as to counties, cities and towns, see Code of Va., Title 15.2; as to counties generally, see Code of Va., § 15.2-300 et seq.

[2] *Editor's note* - The text of this section derives unchanged from the commissioners' report which is of record in the office of the clerk of the circuit court of the county in Deed Book 20 (Old Series) at pages 327 and 328.

extending up that creek as it meanders to the point on the Old Stage road public highway lying between Wilmington and the Rising Sun at which said creek intersects or crosses said road and thence along said road to the point at which the public road leading by White's Shop and thence by Holland's Old Mill and thence to the three chopped Road at Willis Parrish's residence leaves the road first named about 200 yards from the dwelling house now occupied by Holman Bragg and on the West thereof said House being about 200 yards west of the intersection of Long Island Creek with the road first named and we make the said Creek to the aforesaid point and the said public highways lying between said Townships. That part of said highways lying between the point of intersection with said Creek and the point at which a branch running out of the farm of Pleasant Howard crosses the road leading by Holland's Old Mill to Willis Parrish's shall belong to the Township of Columbia hereinafter named and the balance of said road to the Township of Palmyra hereinafter named. All the territory of said County lying on the East side boundary line will constitute one Township which we name the Township of Columbia in the County of Fluvanna and all lying on the West will constitute another Township which we name the Township of Palmyra in the County of Fluvanna. (Comp. 1974, ch. 2)

Sec. 2-1-2. Office of tie breaker abolished.

Pursuant to section 15.2-1421 of the Code of Virginia the office of tie breaker is hereby abolished. (Comp. 1974, ch. 2; Ord. 11-18-15)

Sec. 2-1-3. Assessment for construction, maintenance, etc., of courthouse and related facilities.

Pursuant to section 17.1-281 of the Code of Virginia, there is hereby assessed, as part of the fees taxed as costs in each civil, criminal or traffic case in the district and circuit courts of the county, the sum of two dollars.

Such assessment shall be collected by the clerk of the court in which the action is filed, and remitted to the treasurer of the county and 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.

The assessment provided for in this section shall be in addition to any other fees prescribed by law.
(Ord. 11-18-15)

Sec. 2-1-4. Assessment of costs in civil cases for law library.

Pursuant to section 42.1-70 of the Code of Virginia, there is hereby imposed and

levied an assessment of four dollars for each civil case filed in the courts of the county. Such assessment shall be paid as part of the costs incident to each such civil action.

The assessment levied by this section shall be collected by the respective clerks of the courts in which such actions are filed and shall be remitted to the treasurer of the county for the purposes set forth in section 42.1-70 of the Code of Virginia, subject to disbursement, from time to time, as the board of supervisors may direct in accordance with the aforesaid statute.

The assessment levied by this section shall be in addition to all other costs prescribed by law, but shall not apply to any action in which the commonwealth or any political subdivision thereof or the federal government is a party and in which the costs are assessed against the commonwealth, political subdivision thereof, or federal government.
(Code 1996; Ord. 6-21-00; Ord. 11-18-15)

Section 2-1-5. Assessment of costs in certain criminal and traffic cases.

Pursuant to section 53.1-120 of the Code of Virginia, there is hereby assessed, as part of the costs in each criminal or traffic case in the district and circuit courts of the county in which the defendant is convicted of a violation of any statute or ordinance, the sum of ten dollars.

Such assessment shall be collected by the clerk of the court in which the case is heard, remitted to the treasurer of the county and held by such treasurer subject to appropriation by the governing body to the sheriff's office for the funding of courthouse security personnel.

The assessment provided for in this section shall be in addition to any other fees prescribed by law.
(Ord. 6-19-02; Ord. 2-20-08)

Article 2. Election Districts.[3]

Sec. 2-2-1. Created and established.

Pursuant to authority contained in Title 24.2, Ch. 3, Article 2.1, Sections 24.2-304.1, *ff.*, and Title 24.2, Ch. 3, Article 3, Sections 24.2-305, *ff.*, of the Code of Virginia, the election districts and their respective polling places for the county are hereby created and established

[3] 2011 Redistricting amendment and reenactment of Sections 2-2-3, 2-2-4 and 2-2-6 was adopted 7-6-11; federal preclearance was obtained 8-11-11.

as set forth in this article. (Min. Bk. 6, pp. 482-484; Comp. 1974, ch. 2; Ord. 7-1-81; Ord. 5-15-91; Ord. 5-16-01)

Sec. 2-2-2. Magisterial districts unaffected by article; representation to be by election district.

The magisterial districts of the county, with boundary lines and names thereof respectively as constituted and known on the day before the ordinance from which this article derives took effect, shall remain the same, but representation on the governing body shall be by election districts described in this article. (Min. Bk. 6, pp. 482-484; Comp. 1974, ch. 2; Ord. 7-1-81; Ord. 5-15-91; Ord. 5-16-01)

Sec. 2-2-3. Districts enumerated; populations and polling places; precincts.[4]

(A) The election districts, with populations and polling places set forth, are as follows:

Name	*Population*	*Polling Place*
Palmyra	5355	Palmyra Fire House[5]
Columbia	5187	Kents Store Agricultural Recreation Center[6]
Fork Union	4650	Fluvanna County Community Center
Cunningham	5229	Antioch Baptist Church[7]
Rivanna	5270	Lake Monticello Firehouse, Maple Room[8]

Precincts shall be known by their respective polling places and shall be coterminous with the respective electoral districts.

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[4] For state law as to central absentee voter precinct, see Code of Va., § 24.2-712.

[5] Change in Palmyra polling place was adopted 11-15-06; federal preclearance was obtained 1-29-07.

[6] Change in Columbia polling place was adopted 6-15-05; federal preclearance was obtained 9-2-05.

[7] Change in Cunningham polling place was adopted 7-18-07; federal preclearance was obtained 9-5-07.

[8] Change in Rivanna polling place was adopted 1-6-16.

(B) In addition to the foregoing precincts, there is hereby established a central absentee voting precinct, which shall be in the Historic Courthouse[9], Palmyra, Virginia. The central absentee voting precinct shall be used for all elections.
(Min. Bk. 6, pp. 482-484; Comp. 1974, ch. 2; Ord. 7-1-81; Ord. 5-15-91; Ord. 1-18-95; Ord. 5-16-01; Ord. 3-20-02; Ord. 11-15-06; Ord. 7-18-07; Ord. 2-18-09; Ord. 7-6-11; Ord. 1-6-16)

Sec. 2-2-4. District boundaries.

The boundaries of the respective election districts are as set forth below:

Palmyra Election District - Number 1.

Beginning at the intersection of the Fluvanna-Albemarle County line and Route 53 (Thomas Jefferson Parkway) and following Route 53 (Thomas Jefferson Parkway) in an easterly direction to its intersection with Route 618 (Lake Monticello Road), thence in a northerly direction with Route 618 (Lake Monticello Road) approximately 2400 feet to its intersection with the eastern property line of 557 Jefferson Drive (Tax Map Parcel 18A-5-235), thence in a southeasterly direction with the property line of 557 Jefferson Drive (Tax Map Parcel 18A-5-235) to the intersection of Jefferson Drive and Lafayette Drive,[10] thence in an easterly direction with Jefferson Drive to its intersection with Slice Road, thence in an easterly direction with Slice Road to its intersection with Route 600 (South Boston Road) and following Route 600 (South Boston Road) in a southerly direction to its intersection with the northern edge of census block 1067, thence in an easterly direction with the northern edge of census block 1067 to its intersection with Burke Creek, a tributary of the Rivanna River, and following Burke Creek in an easterly direction to its intersection with the Rivanna River, thence in a southeasterly direction with the Rivanna River to its intersection with Route 15 (James Madison Highway) and following Route 15 (James Madison Highway) in a northerly direction to its intersection with Route 644 (Salem Church Road), thence in a northerly direction with Route 644 (Salem Church Road) to its intersection with Route 616 (Union Mills Road), thence in an easterly direction with Route 616 (Union Mills Road) to its

[9] Change in central absentee voting precinct was adopted 2-18-09; federal preclearance was obtained 5-5-09.

[10] Editor's Note – the original contained an incorrect statement of the written description of the boundaries of the Palmyra Election District regarding a portion of the boundary between the Palmyra and Rivanna Election Districts. The editor has deleted the following to correct this clerical error: "thence in a southeasterly direction with Lafayette Drive to its intersection with Northwood Road, thence in a southerly direction with Northwood Road to its intersection with Jefferson Drive".

intersection with Route 15 (James Madison Highway),[11] thence in a northerly direction with Route 15 (James Madison Highway) to its intersection with Route 631 (Troy Road), thence in a westerly direction with Route 631 (Troy Road) to its intersection with Wounded Knee Lane, thence in a northerly direction with Wounded Knee Lane to its intersection with Ghost Dance Lane and following Ghost Dance Lane in a northerly direction to its intersection with Route 631 (Troy Road), thence in a northerly direction with Route 631 (Troy Road) to its intersection with Route 250 (Richmond Road), thence in a westerly direction with Route 250 (Richmond Road) to its intersection with Prison Lane, thence in a southerly direction with Prison Lane to its intersection with census block 2059 and following census block 2059 to its intersection with Prison Lane, thence in a northerly direction with Prison Lane to its intersection with Route 250 (Richmond Road) and following Route 250 (Richmond Road) in a westerly direction to its intersection with Route 627 (Zion Road), thence in a northeasterly direction with Route 627 (Zion Road) to its intersection with Edd Ridge Lane, thence in a northerly direction with Edd Ridge Lane to its intersection with Cedar Ridge Road, thence in a northerly direction with Cedar Ridge Road to its intersection with the Fluvanna-Louisa County line, thence in a westerly direction with the Fluvanna-Louisa County line, to its intersection with the Fluvanna-Albemarle County line, thence in a southerly direction with the Fluvanna-Albemarle County line to its intersection with Route 53 (Thomas Jefferson Parkway), the point of beginning.

Columbia Election District - Number 2.

Beginning at the intersection of Route 15 (James Madison Highway) and Route 601 (Courthouse Road) near Palmyra and following Route 15 (James Madison Highway) in a northerly direction to its intersection with Route 644 (Salem Church Road), thence in a northerly direction with Route 644 (Salem Church Road) to its intersection with Route 616 (Union Mills Road), thence in an easterly direction with Route 616 (Union Mills Road) to its intersection with Route 15 (James Madison Highway), thence in a northerly direction with Route 15 (James Madison Highway) to its intersection with Route 631 (Troy Road), thence in a westerly direction with Route 631 (Troy Road) to its intersection with Wounded Knee Lane, thence in a northerly direction with Wounded Knee Lane to its intersection with Ghost Dance Lane and following Ghost Dance Lane in a northerly direction to its intersection with Route 631 (Troy Road), thence in a northerly direction with Route 631 (Troy Road) to its intersection with Route 250 (Richmond Road), thence in a westerly direction with Route 250 (Richmond Road) to its intersection with Prison Lane, thence in a southerly direction with

[11] Editor's Note – the original omitted a portion of the boundary between the Palmyra and Columbia Election Districts from the written description of the boundaries of the Palmyra Election District. The editor has inserted the following to correct this clerical error: "Route 644 (Salem Church Road), thence in a northerly direction with Route 644 (Salem Church Road) to its intersection with Route 616 (Union Mills Road), thence in an easterly direction with Route 616 (Union Mills Road) to its intersection with Route 15 (James Madison Highway)".

Prison Lane to its intersection with census block 2059 and following census block 2059 to its intersection with Prison Lane, thence in a northerly direction with Prison Lane to its intersection with Route 250 (Richmond Road), thence in a westerly direction with Route 250 (Richmond Road) to its intersection with Route 627 (Zion Road), thence in a northeasterly direction with Route 627 (Zion Road) to its intersection with Edd Ridge Lane and following Edd Ridge Lane in a northerly direction to its intersection with Cedar Ridge Road, thence in a northerly direction with Cedar Ridge Road to its intersection with the Fluvanna-Louisa County line and following the Fluvanna-Louisa County line in an easterly direction to its intersection with the Fluvanna-Goochland County line, thence in a southerly direction with the Fluvanna-Goochland County line to its intersection with the James River and following the James River in a westerly direction to its intersection with the Rivanna River, thence in a northwesterly direction with the Rivanna River for approximately one and one-half miles to a northeasterly bend in the Rivanna River, thence around the bend and continuing in a northeasterly direction for approximately 4,200 feet to the intersection with the boundary line dividing Tax Map Parcel 54-11-Y and Tax Map Parcel 54-11-X, also known as the northern edge of the Columbia growth area as set forth in the Fluvanna County Comprehensive Plan Future Land Use Map, thence in a southeasterly direction with the boundary line dividing Tax Map Parcel 54-11-Y and Tax Map Parcel 54-11-X to its intersection with the power line right-of-way, thence in a northeasterly direction with the power line right-of-way to its intersection with Route 659 (Stage Junction Road), thence in a northerly direction with Route 659 (Stage Junction Road) to its intersection with Route 608 (Wilmington Road), thence in a westerly direction with Route 608 (Wilmington Road) to its intersection with Route 601 (Courthouse Road) and following Route 601 (Courthouse Road) in a westerly direction to its intersection with Route 15 (James Madison Highway) near Palmyra, the point of beginning.

Fork Union Election District - Number 3.

Beginning at the intersection of Route 15 (James Madison Highway) and the Rivanna River near Palmyra and following the Rivanna River in a northwesterly direction to its intersection with Burke Creek near Pleasant Grove, thence in a westerly direction with Burke Creek to its intersection with the northern edge of census block 1067 and following the northern edge of census block 1067 in a westerly direction to its intersection with Route 600 (South Boston Road), thence in a southerly direction with Route 600 (South Boston Road) to its intersection with Route 53 (Thomas Jefferson Parkway), thence in an easterly direction with Route 53 (Thomas Jefferson Parkway) to its intersection with Route 619 (Ruritan Lake Road) and following Route 619 (Ruritan Lake Road) in a westerly direction to its intersection with the Cunningham Creek, thence in a westerly direction with Cunningham Creek to its intersection with the power line right-of-way and following the power line right-of-way in a southeasterly direction to its intersection with Route 693 (Bell Farms Lane), thence in a southwesterly direction with Route 693 (Bells Farm Lane) to its intersection with Route 639 (Long Acre Road) and following Route 639 (Long Acre Road) in a southeasterly direction to its intersection with Haislip Lane, thence in a southwesterly direction with Haislip Lane to its intersection with Route 620 (Rolling Road) and following Route 620 (Rolling Road) in a

westerly direction to its intersection with Route 669 (Kidds Dairy Road), thence in a southerly direction with Route 669 (Kidds Dairy Road) to its intersection with Windy Ridge Lane and following Windy Ridge Lane in a southerly direction to its intersection with the Hardware River, thence in a southerly direction with the Hardware River to its intersection with the James River and following the James River in an easterly direction to its intersection with the Rivanna River, thence in a northwesterly direction with the Rivanna River for approximately one and one-half miles to a northeasterly bend in the Rivanna River, thence around the bend and continuing in a northeasterly direction for approximately 4,200 feet to the intersection with the boundary line dividing Tax Map Parcel 54-11-Y and Tax Map Parcel 54-11-X, also known as the northern edge of the Columbia growth area as set forth in the Fluvanna County Comprehensive Plan Future Land Use Map, thence in a southeasterly direction with the boundary line dividing Tax Map Parcel 54-11-Y and Tax Map Parcel 54-11-X to its intersection with the power line right-of-way, thence in a northeasterly direction with the power line right-of-way to its intersection with Route 659 (Stage Junction Road), thence in a northerly direction with Route 659 (Stage Junction Road) to its intersection with Route 608 (Wilmington Road), thence in a westerly direction with Route 608 (Wilmington Road) to its intersection with Route 601 (Courthouse Road), thence in a westerly direction with Route 601 (Courthouse Road) to its intersection with Route 15 (James Madison Highway) and following Route 15 (James Madison Highway) in a southerly direction to its intersection with the Rivanna River near Palmyra, the point of beginning.

Cunningham Election District - Number 4.

Beginning at the intersection of the Fluvanna-Albemarle County line and Route 53 (Thomas Jefferson Parkway) and following Route 53 (Thomas Jefferson Parkway) in an easterly direction to its intersection with Route 618 (Lake Monticello Road), thence in a northerly direction with Route 618 (Lake Monticello Road) approximately 2,400 feet to its intersection with the eastern property line of 557 Jefferson Drive (Tax Map Parcel 18A-5-235), thence in a southeasterly direction with the eastern property line of 557 Jefferson Drive (Tax Map Parcel 18A-5-235) to the intersection of Jefferson Drive and Lafayette Drive, thence in a southeasterly direction with Lafayette Drive to its intersection with Northwood Road, thence in a southerly direction with Northwood Road to its intersection with Jefferson Drive, thence in an easterly direction with Jefferson Drive to its intersection with Slice Road, thence in an easterly direction with Slice Road to its intersection with Route 600 (South Boston Road) and following Route 600 (South Boston Road) in a southerly direction its intersection with Route 53 (Thomas Jefferson Parkway), thence in an easterly direction with Route 53 (Thomas Jefferson Parkway) to its intersection with Route 619 (Ruritan Lake Road) and following Route 619 (Ruritan Lake Road) in a westerly direction to its intersection with Cunningham Creek, thence in a westerly direction with Cunningham Creek to its intersection with the power line right-of-way and following the power line right-of-way in a southeasterly direction to its intersection with Route 693 (Bell Farms Lane), thence in a westerly direction with Route 693 (Bell Farms Lane) to its intersection with Route 639 (Long Acre Road) and following Route 639 (Long Acre Road) in a southerly direction to its intersection with Haislip

Lane, thence in a southwesterly direction with Haislip Lane to its intersection with Route 620 (Rolling Road) and following Route 620 (Rolling Road) in a westerly direction to its intersection with Route 669 (Kidds Dairy Road), thence in a southerly direction along Route 669 (Kidds Dairy Road) to its intersection with Windy Ridge Lane and following Windy Ridge Lane in a southerly direction to its intersection with the Hardware River, thence in a southerly direction with the Hardware River to its intersection with the James River, thence in a westerly direction with the James River to its intersection with the Fluvanna-Albemarle County line, thence in a northerly direction with the Fluvanna-Albemarle County line to its intersection with Route 53 (Thomas Jefferson Parkway), the point of beginning.

Rivanna Election District - Number 5.

Beginning at the intersection of Jefferson Drive and Lafayette Drive[12] and following Jefferson Drive in an easterly (clockwise) direction around Lake Monticello to its intersection with Northwood Road, thence in a northerly direction with Northwood Road to its intersection with Lafayette Drive, thence in a westerly direction with Lafayette Drive to its intersection with Jefferson Drive, the point of beginning.
(Min. Bk. 6, pp. 482-484; Comp. 1974, ch. 2; Ord. 7-1-81; Ord. 5-15-91; Ord. 5-16-01; Ord. 7-6-11)

Sec. 2-2-5. Supervisors elected biennially; terms.

The members of the county board of supervisors shall be elected biennially for four-year terms. (Comp. 1974, ch. 2; Ord. 5-16-01)

Sec. 2-2-6. One supervisor elected from each district.

One supervisor shall be elected from each election district established by this article. (Min. Bk. 6, pp. 482-484; Comp. 1974, ch. 2; Ord. 7-1-81; Ord. 5-15-91; Ord. 5-16-01; Ord. 7-6-11)

Article 3. Reserved.

Article 4. Planning Commission.[13]

Sec. 2-4-1. Generally.

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[12] Editor's Note – The original incorrectly stated Lafayette *Road*, when the proper name is in fact Lafayette *Drive*. The editor has corrected this clerical error.

[13] For state law as to local planning commissions, see Code of Va., § 15.2-2210 et seq.

The county planning commission shall consist of five members, appointed by the board of supervisors, all of whom shall be residents of the county and of the election district from which they are appointed, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. One member shall be appointed from each of the county's election districts. In addition, there shall be one member of the commission appointed by the board of supervisors from among its members, whose term as such member of the commission shall be coterminous with the term of such member as a member of the board of supervisors or such lesser term as the board of supervisors shall determine, who shall serve as liaison and who shall not be entitled to vote on matters before the commission. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. Removal of residence from the district from which a member is appointed shall automatically vacate the office of such member. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office. Each member of the commission shall receive compensation for his services as shall be established by resolution of the board of supervisors from time to time.

The foregoing notwithstanding, for so long as the terms of any of the members of the commission shall be unexpired as of the date of adoption of this amendment, such current members shall continue in office in all respects as members in good standing until their respective unexpired terms expire or otherwise terminate.
(9-4-96; Ord. 1-15-97; Ord. 11-17-04; Ord. 3-21-12)

Sec. 2-4-2. Power and duties.[14]

The county planning commission shall have all the functions, powers and duties which are prescribed by law. (Min. Bk. 5, pp. 500 - 501; Comp. 1974, ch. 2; Ord. 11-18-15)

Sec. 2-4-3. Designated to supervise, etc., development of plan for water and sewer systems.

The board of supervisors hereby designates the county planning commission to supervise and coordinate the development of a comprehensive area plan for the orderly development of water and sewer systems in the county. (Min. Bk. 6, p. 211; Comp. 1974, ch. 10)

Sec. 2-4-4. Designation as planning commission of the Town of Columbia.

[14] For state law reference, see Code of Va., § 15.2-2210 et seq.

In accordance with the provisions of Virginia Code section 15.2-2218, the governing body of the County hereby consents to the designation of the county planning commission as the planning commission of the Town of Columbia. (Ord. 3-20-13)

Article 5. Finance.

Sec. 2-5-1. Signatures on warrants for payment of money.[15]

All warrants issued by the board of supervisors, or by its authority, for the payment of money, shall be signed by the chairman of the board and county administrator and by the county treasurer, each in his official capacity. (Comp. 1974, ch. 7; Ord. 11-18-15)

Sec. 2-5-2. Authority of county treasurer to invest idle funds at higher interest than on ordinary deposits.[16]

The county treasurer, upon determining that county funds in any given amount would otherwise lie idle and draw a lesser rate of interest for a period of time not less than sixty days, may place such funds in such amount upon time deposit in any one or more of the duly designated county depositories at such rate of interest and upon such conditions of withdrawal as he may determine, or he may invest such funds in such amount as provided in section 2.2-4501 of the Code of Virginia. (Comp. 1974, ch. 7; Ord. 11-18-15)

Sec. 2-5-2.1. Establishment of County Finance Board.

There is hereby established a County Finance Board pursuant to Virginia Code Sec. 58.1-3151. The membership, powers, duties, compensation, organization and procedures of the Board shall be as provided in Virginia Code Sec. 58.1-3151, *et seq.*, or any successor statutes which concern substantially the same subject matter. The initial board shall be composed of the chairman of the governing body of the County, the treasurer of the County and a citizen of the County of proven integrity and business ability appointed by the circuit court of the County. The term of the citizen member shall be for four years, except as otherwise provided by law. (Ord. 3-19-08)

Sec. 2-5-3. Fee for returned checks.[17]

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[15] For state law as to payment of warrants and signatures required thereon generally, see Code of Va., §§ 15.2-1203, 15.2-1243, 15.2-1410, 15.2-1539.

[16] For state law as to interest on a fund belonging to the fund and to investment of funds pursuant to state treasurer's guidelines, see Code of Va., § 2.2-4500 et seq.

[17] For state law reference, see Code of Va., § 15.2-106.

Any person uttering, publishing or passing any check or draft to the county for payment of taxes or any other sums due, which check or draft is subsequently returned for (1) insufficient funds, (2) because there is no account, or (3) because the account has been closed, shall be liable to the county for a fee in the sum of fifty ($50) dollars to cover the county's administrative costs in processing or collecting such check or draft. (Comp. 1974, ch. 7; Ord. 6-4-84; Ord. 11-18-15)

Article 6. Free Public Library.

Sec. 2-6-1. Continuation of free public library.[18]

The Fluvanna County Public Library, heretofore established as a free public library by resolution of the board of supervisors adopted May 20, 1998, effective July 1, 1998, is hereby continued. (Ord. 11-18-15)

Sec. 2-6-2. Management vested in board of trustees; terms of trustees; powers of board.

The management and control of the Fluvanna County Library shall be vested in a board of seven members or trustees, in accordance with the provisions of Virginia Code Section 42.1-35. They shall be appointed by the board of supervisors, chosen from the citizens at large with reference to their fitness for such office. However, one board member or trustee may be a member or an employee of the board of supervisors. Initially members shall be appointed as follows: one member for a term of one year, one member for a term of two years, one member for a term of three years, and the remaining members for terms of four years; thereafter all members shall be appointed for terms of four years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A member shall not receive a salary or other compensation for services as a member but necessary expenses actually incurred shall be paid from the library fund. A member of a library board may be removed for misconduct or neglect of duty by the board of supervisors. The members shall adopt such bylaws, rules and regulations for their own guidance and for the government of the free public library system as may be expedient. They shall have control of the expenditures of all moneys credited to the library fund. The board shall have the right to accept donations and bequests of money, personal property, or real estate for the establishment and maintenance of such free public library systems or endowments for same. (Ord. 6-17-98)

Article 7. Official County Seal.

[18] For state law as to authority of county to establish a free public library, see Code of Va., § 42.1-33 et seq.

Sec. 2-7-1. Adoption of County Seal.

The seal of Fluvanna County is hereby adopted to be the seal currently in use by the County. The seal consists of a picture of the historic former Point of Fork Arsenal showing the Fluvanna River in the background with a branch from a persimmon tree above it in a circle, surrounded by the words "FLUVANNA COUNTY VIRGINIA—1777". The seal shall still constitute the seal whether in black and white, color or other hue or tone combination and regardless of the size, character or medium in which the same shall be depicted. (Ord. 9-15-10)

Sec. 2-7-2. Seal deemed property of the County; unauthorized use prohibited.

The seal of Fluvanna County shall be deemed the property of the County; and no persons shall exhibit, display, or in any manner utilize the seal or any facsimile or representation of the seal of Fluvanna County for nongovernmental purposes unless such use is specifically authorized by law. (Ord. 9-15-10; Ord. 2-16-11)

Sec. 2-7-3. Violation and penalty.

Any person violating the provisions of this section shall be punished by a fine of not more than $100, or by imprisonment for not more than 30 days or both. (Ord. 9-15-10; Ord. 2-16-11)

Article 8. Compensation of Employees, Officers, Agents.

Sec. 2-8-1. Compensation of employees, officers, agents.

Except as otherwise provided by law, all officers, employees and agents of the County shall receive as compensation for their services such sums as may be appropriated therefor in the annual budget as the same may be amended from time to time, in accordance with the terms of the pay plan as in effect or with the terms of any contract in the case of persons serving under contract with the County. In addition to such compensation, monetary bonuses to County officers and employees are authorized and may be paid, from time to time, as authorized by the board of supervisors. (Ord. 7-6-11)

2-18-16

Chapter 3
RESERVED

Chapter 3.1

AGRICULTURAL AND FORESTAL DISTRICTS

Sec. 3.1-1. Definitions.
Sec. 3.1-2. Enactment of ordinances; application form and fees; maps.
Sec. 3.1-3. Agricultural and forestal districts advisory committee.
Sec. 3.1-4. Application for creation of district in one or more localities; size and location of parcels.
Sec. 3.1-5. Criteria for evaluating application.
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Sec. 3.1-9. Additions to a district.
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Sec. 3.1-13. Withdrawal of land from a district; termination of a district.

Chapter 3.1
AGRICULTURAL AND FORESTAL DISTRICTS

Sec. 3.1-1. Definitions.

As used in this chapter, unless the context requires a different meaning:

Advisory committee means the agricultural and forestal districts advisory committee.

Agricultural products means crops, livestock and livestock products, including but not limited to: field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

Agricultural production means the production for commercial purposes of crops, livestock and livestock products, and includes the processing or retail sales by the producer of crops, livestock or livestock products which are produced on the parcel or in the district.

Agriculturally and forestally significant land means land that has recently or historically produced agricultural and forestal products, is suitable for agricultural or forestal production or is considered appropriate to be retained for agricultural and forestal production as determined by such factors as soil quality, topography, climate, markets, farm structures, and other relevant factors.

Application means the set of items a landowner or landowners must submit to the governing body when applying for the creation of a district or an addition to an existing district.

District means an agricultural, forestal, or agricultural and forestal district.

Forestal production means the production for commercial purposes of forestal products and includes the processing or retail sales, by the producer, of forestal products which are produced on the parcel or in the district.

Forestal products includes, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees and other tree and wood products for sale or for farm use.

Landowner or *owner of land* means any person holding a fee simple interest in property but does not mean the holder of an easement.

Program Administrator means the governing body or official appointed by the governing body to administer the agricultural and forestall districts program.

(Ord. 11-4-98; Ord. 11-18-15)

Sec. 3.1-2. Enactment of ordinances; application form and fees; maps.

(A) The governing body may, by ordinance, create one or more agricultural and forestal districts within the County in accordance with Title 15.2, Chapter 43 of the Virginia Code. The zoning administrator shall, subject to the approval of the governing body, promulgate forms in substantially the form prescribed in section 15.2-4303 of the Code of Virginia. Each application submitted pursuant to this chapter shall be accompanied by a fee of $500 or the costs of processing and reviewing an application, whichever is less.

(B) Each application shall include but need not be limited to the following information:

(1) The general location of the district;

(2) The total acreage in the district or acreage to be added to an existing district;

(3) The name, address, and signature of each landowner applying for creation of a district or an addition to an existing district and the acreage each owner owns within the district or addition;

(4) The conditions proposed by the applicant pursuant to section 15.2-4309 of the Code of Virginia;

(5) The period before first review proposed by the applicant pursuant to section 15.2-4309 of the Code of Virginia; and

(6) The date of application, date of final action by the governing body and whether approved, modified or rejected.

(C) The application form shall be accompanied by maps or aerial photographs, or both, that clearly show the boundaries of the proposed district and each addition and boundaries of properties owned by each applicant.

(D) For each notice required by this chapter to be sent to a landowner; notice shall be sent by first-class mail to the last known address of such owner as shown on the application hereunder or on the current real estate tax assessment books or maps. A representative of the planning commission or governing body shall make an affidavit that such mailing has been made and file such affidavit with the papers in the case.

(Ord. 11-4-98; Ord. 5-19-10; Ord. 11-18-15)

Sec. 3.1-3. Agricultural and forestal districts advisory committee.

Upon receipt of the first agricultural and forestal districts application, the governing body shall establish an advisory committee, which shall consist of four landowners who are engaged in agricultural or forestal production, four other landowners of the County, the commissioner of revenue, and a member of the governing body. The members of the committee shall be appointed by and serve at the pleasure of the governing body. The advisory committee shall elect a chairman and a vice-chairman and elect or appoint a secretary who need not be a member of the committee. The advisory committee shall serve without pay. The committee shall advise the planning commission and the governing body and assist in creating, reviewing, modifying, continuing or terminating districts within the County. In particular, the committee shall render expert advice as to the nature of farming and forestry and agricultural and forestal resources within the district and their relation to the entire County. (Ord. 11-4-98)

Sec. 3.1-4. Application for creation of district in one or more localities; size and location of parcels.

On or before November 1 of each year, any owner or owners of land may submit an application to the County for the creation of a district or addition of land to an existing district within the County. Each district shall have a core of no less than 200 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district if the nearest boundary of the parcel is within one mile of the boundary of the core, or if it is contiguous to a parcel in the district the nearest boundary of which is within one mile of the boundary of the core. No land shall be included in any district without the signature on the application, or the written approval of all owners thereof. A district may be located in more than one county, provided that (i) separate application is made to each county involved, (ii) each governing body approves the district, and (iii) the district meets the size requirements of this Section. In the event that the governing bodies of one or more such counties disapproves the creation of a district within its boundaries, the creation of the district within Fluvanna County shall not be affected, provided that the district otherwise meets the requirements set out in this chapter. In no event shall the act of creating a single district located in two localities pursuant to this subSection be construed to create two districts. (Ord. 11-4-98)

Sec. 3.1-5. Criteria for evaluating application.[1]

Land being considered for inclusion in a district may be evaluated by the advisory

[1] For state law reference, see Code of Va., § 15.2-4303.

committee and the planning commission through the Virginia Land Evaluation and Site Assessment (LESA) System. The following factors shall be considered by the planning commission and the advisory committee, and at any public hearing at which an application that has been filed pursuant to this chapter is being considered:

(1) The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;

(2) The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;

(3) The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;

(4) Local developmental patterns and needs;

(5) The comprehensive plan and applicable provisions of the zoning ordinance;

(6) The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and

(7) Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.
(Ord. 11-4-98; Ord. 11-18-15)

Sec. 3.1-6. Review of application; notice; hearing.[2]

Upon the receipt of an application for a district or for an addition to an existing district, the program administrator shall refer such application to the advisory committee. The advisory committee shall review and make recommendations concerning the application or modification thereof to the planning commission, which shall:

(1) Notify, by first-class mail, adjacent property owners as shown on the maps of

[2] For state law reference, see Code of Va., §§ 15.2-4307, 15.2-4309.

the County used for tax assessment purposes, and where applicable, any political subdivision whose territory encompasses or is part of the district, of the application. The notice shall contain: (i) a statement that an application for a district has been filed with the program administrator pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the County Administrator; (iii) a statement that any owner of additional qualifying land may join the application within thirty days from the date of the notice or, with the consent of the governing body, at any time before the public hearing the governing body must hold on the application; (iv) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the governing body, at any time before the governing body acts pursuant to Sec. 3.1-8 of this chapter; and (v) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter;

(2) Hold a public hearing as prescribed by law; and

(3) Report its recommendations to the governing body including but not limited to the potential effect of the district and proposed modifications upon the County's planning policies and objectives.
(Ord. 11-4-98; Ord. 11-18-15)

Sec. 3.1-7. Repealed.

(Ord. 11-4-98; Ord. 11-18-15)

Sec. 3.1-8. Hearing; creation of district; conditions; notice.

(A) The governing body, after receiving the report of the planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

(B) As a condition to creation of the district, any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. The following shall not be prohibited as a more intensive use, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district:

(1) construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner; or

(2) divisions of parcels for such family members as provided in Sec. 19-2-1 of the County Code; or

(3) divisions of land into two or more lots no one of which is less than 22 acres in area.

(C) Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more than ten years from the date of its creation. In prescribing the period before the first review, the governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

(D) The governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from November 1.

(E) Upon the adoption of an ordinance creating a district or adding land to an existing district, the governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.
(Ord. 11-4-98)

Sec. 3.1-9. Additions to a district.[3]

Additional parcels of land may be added to an existing district at any time by following the process and application deadlines prescribed for the creation of a new district. (Ord. 11-4-98; Ord. 11-18-15)

[3] For state law reference, see Code of Va., § 15.2-4310.

Sec. 3.1-10. Review of districts.[4]

The governing body may complete a review of any district created under this Section, together with additions to such district, no less than four years but no more than ten years after the date of its creation and every four to ten years thereafter. If the governing body determines that a review is necessary, it shall begin such review at least ninety days before the expiration date of the period established when the district was created. In conducting such review, the governing body shall ask for the recommendations of the advisory committee and the planning commission in order to determine whether to terminate, modify or continue the district. When each district is reviewed, land within the district may be withdrawn at the owner's discretion by filing a written notice with the governing body at any time before it acts to continue, modify or terminate the district. The planning commission or the advisory committee shall schedule as part of the review a public meeting with the owners of land within the district, and shall send by first-class mail a written notice of the meeting and review to all such owners. The notice shall state the time and place for the meeting; that the district is being reviewed by the governing body; that the governing body may continue, modify, or terminate the district; and that land may be withdrawn from the district at the owner's discretion by filing a written notice with the governing body at any time before it acts to continue, modify or terminate the district. The governing body shall hold a public hearing as provided by law. The governing body may stipulate conditions to continuation of the district and may establish a period before the next review of the district, which may be different from the conditions or period established when the district was created. Any such different conditions or period shall be described in a notice sent by first-class mail to all owners of land within the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance continuing the district. Unless the district is modified or terminated by the governing body, the district shall continue as originally constituted, with the same conditions and period before the next review as that established when the district was created.

If the governing body determines that a review is unnecessary, it shall set the year in which the next review shall occur.
(Ord. 11-4-98; 11-18-15)

Sec. 3.1-11. Effects of districts.

(A) Land lying within a district and used in agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, if the requirements for such assessment contained therein are satisfied.

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[4] For state law reference, see Code of Va., § 15.2-4311.

(B) The County shall not exercise any of its powers to enact local laws or ordinances within a district in a manner which would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the purposes of this chapter unless such restrictions or regulations bear a direct relationship to public health and safety. The comprehensive plan and zoning and subdivision ordinances shall be applicable within said districts, to the extent that such ordinances are not in conflict with the conditions to creation or continuation of the district set forth in the ordinance creating or continuing the district or the purposes of this chapter. Nothing in this chapter shall affect the authority of the County to regulate the processing or retail sales of agricultural or forestal products, or structures therefor, in accordance with the comprehensive plan or any ordinance. Ordinances, comprehensive plans, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to any district shall take into account the existence of such district and the purposes of this chapter.

(C) No special district for sewer, water or electricity or for nonfarm or nonforest drainage may impose benefit assessments or special tax levies on the basis of frontage, acreage or value on land used for primarily agricultural or forestal production within a district, except a lot not exceeding one-half acre surrounding any dwelling or nonfarm structure located on such land.
(Ord. 11-4-98)

Sec. 3.1-12. Proposals as to land acquisition or construction within district.

(A) Any agency of the Commonwealth or any political subdivision which intends to acquire land or any interest therein other than by gift, devise, bequest or grant, or any public service corporation which intends to: (i) acquire land or any interest therein for public utility facilities not subject to approval by the State Corporation Commission, provided that the proposed acquisition from any one farm or forestry operation within the district is in excess of one acre or that the total proposed acquisition within the district is in excess of ten acres or (ii) advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures, shall at least ninety days prior to such action notify the governing body and all of the owners of land within the district. Notice to landowners shall be sent by first-class or registered mail and shall state that further information on the proposed action is on file with the governing body. Notice to the governing body shall be filed in the form of a report containing the following information:

(1) A detailed description of the proposed action, including a proposed construction schedule;

(2) All the reasons for the proposed action;

(3) A map indicating the land proposed to be acquired or on which the proposed dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures are to be constructed;

(4) An evaluation of anticipated short-term and long-term adverse impacts on agricultural and forestal operations within the district and how such impacts are proposed to be minimized;

(5) An evaluation of alternatives which would not require action within the district; and

(6) Any other relevant information required by the governing body.

(B) Upon receipt of a notice filed pursuant to subSection A, the governing body, in consultation with the planning commission and the advisory committee, shall review the proposed action and make written findings as to (i) the effect the action would have upon the preservation and enhancement of agriculture and forestry and agricultural and forestal resources within the district and the policy of the Agricultural and Forestal Districts Act; (ii) the necessity of the proposed action to provide service to the public in the most economical and practical manner; and (iii) whether reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts on agricultural and forestal resources within the district.

(C) If the governing body finds that the proposed action might have an unreasonably adverse effect upon either state or local policy, it shall (i) issue an order within ninety days from the date the notice was filed directing the agency, corporation or political subdivision not to take the proposed action for a period of 150 days from the date the notice was filed and (ii) hold a public hearing, as prescribed by law, concerning the proposed action. The hearing shall be held where the governing body usually meets or at a place otherwise easily accessible to the district. The County shall publish notice in a newspaper having a general circulation within the district, and mail individual notice of the hearing to the political subdivisions whose territory encompasses or is part of the district, and the agency, corporation or political subdivision proposing to take the action. Before the conclusion of the 150-day period, the governing body shall issue a final order on the proposed action. Unless the governing body, by an affirmative vote of a majority of all the members elected to it, determines that the proposed action is necessary to provide service to the public in the most economic and practical manner and will not have an unreasonably adverse effect upon state or local policy, the order shall prohibit the agency, corporation or political subdivision from proceeding with the proposed action. If the agency, corporation or political subdivision is

aggrieved by the final order of the governing body, an appeal shall lie to the circuit court having jurisdiction of the territory wherein a majority of the land affected by the acquisition is located. However, if such public service corporation is regulated by the State Corporation Commission, an appeal shall be to the State Corporation Commission.
(Ord. 11-4-98)

Sec. 3.1-13. Withdrawal of land from a district; termination of a district.

(A) At any time after the creation of a district within the County, any owner of land lying in such district may file with the County a written request to withdraw all or part of his land from the district for good and reasonable cause. The program administrator shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission, which shall hold a public hearing and make recommendations to the governing body. Land proposed to be withdrawn may be reevaluated through the Virginia Land Evaluation and Site Assessment (LESA) System. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This Section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to (iv) of subdivision (1) of Sec. 3.1-6 or Sec. 3.1-10 of this chapter.

(B) Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to roll-back taxes as are provided in section 58.1-3237 of the Code of Virginia.

(C) Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of subSection B of Sec. 3.1-11 of this chapter.

(D) Upon the death of a property owner, any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the governing body and the commissioner of the revenue within two years of the date of death of the owner.

(E) Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the governing body shall submit a copy of the ordinance or notice of withdrawal to the local commissioner of revenue, the State Forester and the State Commissioner of Agriculture and Consumer Services for information purposes. The

commissioner of revenue shall delete the identification of such parcel from the land book and the tax map, and the governing body shall delete the identification of such parcel from the zoning map, where applicable.

(F) The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to Sec. 3.1-10 of this chapter.
(Ord. 11-4-98; Ord. 11-18-15)

Chapter 4
ANIMALS AND FOWL

Article 1. In General.

Sec. 4-1-1. Fence law declared.
Sec. 4-1-2. Burial or cremation of animals or fowls which have died.

Article 2. Dogs.

Sec. 4-2-1. License - - Required; term; where license tax payable; amount of tax.
Sec. 4-2-1.1. Same - - When license tax payable.
Sec. 4-2-1.2. Same - - Disposition of license taxes, etc.
Sec. 4-2-1.3. Same - - Relevant state law applicable.
Sec. 4-2-2. Running at large in Lake Monticello subdivision.
Sec. 4-2-3. Control of dangerous or vicious dogs.
Sec. 4-2-4. Rabies inoculation of dogs and domesticated cats; availability of certificate; penalty for violation.

Chapter 4
ANIMALS AND FOWL

Article 1. In General.[1]

Sec. 4-1-1. Fence law declared.

The boundary line of each lot or tract of land is hereby declared to be a lawful fence as to all of the animals mentioned in section 55-306 of the Code of Virginia. The foregoing declaration shall not apply within the limits of any incorporated town.

Sec. 4-1-2. Burial or cremation of animals or fowls which have died.[2]

When the owner of any animal or grown fowl 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. If the owner fails to do so, any judge of the 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. Except as otherwise expressly designated by the court, the County's animal control officer shall be the officer so designated. Such officer or other person shall be entitled to recover of the owner of every such animal or fowl that is 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. As to any such cremation or burial performed by or at the direction of the animal control officer, the cost of such cremation or burial shall be recovered by the County. Any person violating the provisions of this section shall punished as for 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. 2-20-02; Ord. 11-18-15)

Article 2. Dogs.[3]

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[1] For state law as to cruelty to animals, see Code of Va., § 3.2-6570 et seq.; as to penalties for violation of offenses involving animals, see Code of Va., §§ 3.2-6587 and 18.2-403.1 et seq.

[2] For state law as to authority of county to regulate disposal of bodies of animals or fowl, see Code of Va., § 18.2-510.

[3] For state law as to authority of local governing bodies and licensing of dogs, see Code of Va., § 3.2-6537 et seq.

Sec. 4-2-1. License -- Required; term; where license tax payable; amount of tax.[4]

It shall be unlawful for any person to own, keep, hold or harbor any dog over four months of age within the county unless such dog is licensed, as required by the provisions of this article. Dog licenses shall run by the calendar year, namely, from January 1 to December 31, inclusive. The license tax, which shall be the only license tax on dogs in this county, shall be payable at the office of the treasurer and shall be as follows:

For a male dog, eight dollars;
For an unsexed (successfully spayed or neutered) male or female dog, four dollars;
For a female dog, eight dollars;
For a kennel of not more than twenty dogs, forty dollars;
For a kennel of not more than fifty dogs, fifty dollars.
(Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4; Ord. 8-4-99; Ord. 2-16-00; Ord. 11-18-15)

Sec. 4-2-1.1. Same - - When license tax payable.

The license tax on dogs shall be due and payable as follows:

(A) On or before January 1 and not later than January 31 of each year, the owner or possessor of any dog four months old or older shall pay a license tax as prescribed in the preceding section.

(B) If a dog shall become four months of age or come into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid forthwith by the owner or possessor.

(C) If a dog shall become four months of age or come into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner or possessor and such license shall protect such dog from date of purchase.
(Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4)

[4] For state law as to authority for licensing taxes and for Sections 4-2-1.1, 4-2-1.2, 4-2-1.3 of this chapter, see Code of Va., § 3.2-6528.

Sec. 4-2-1.2. Same - - Disposition of license taxes, etc.

All license taxes imposed by this article shall be paid to the county treasurer, and all fines collected for violations of this article shall be paid into the county treasury. (Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4)

Sec. 4-2-1.3. Same - - Relevant state law applicable.

All other provisions of the general law of the state pertaining to and regulating dog licenses, not specifically provided for in Sections 4-2-1 to 4-2-1.2 of this chapter and not inconsistent herewith; shall be applicable and in full force and effect as though set out herein. (Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4)

Sec. 4-2-2. Running at large in Lake Monticello subdivision.[5]

The running at large of all dogs at any time is hereby prohibited within the confines of Lake Monticello subdivision, in the Cunningham magisterial district of the county.

For the purposes 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; provided, however, that no dog shall be deemed to be running at large in violation hereof if it shall be engaged in lawful hunting outside of such subdivision under the direction of its owner or custodian and shall thereafter stray into such subdivision; provided, that such owner or custodian shall place such dog under his immediate control within a reasonable time.

Any person who permits his dog to run at large shall be subject to a fine of not more than one hundred dollars.
(Comp. 1974, ch. 4; Ord. 8-4-86; Ord. 11-18-15)

Sec. 4-2-3. Control of dangerous or vicious dogs.

(A) As used in this Section*:*

Dangerous dog means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, 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

[5] For state law as to authority of county to prohibit dogs running at large, see Code of Va., § 3.2-6538.

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 or (ii) both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner of 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.

Serious injury means an injury having a reasonable potential to cause death or any injury other than a sprain or strain including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

Vicious dog means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, an animal control officer as authorized by local ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

(B) 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 jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a 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 he has reason to believe is dangerous or vicious until such time as evidence shall be heard and a verdict rendered. With respect to allegedly dangerous animals only, if the animal control officer determines that the owner or custodian can confine the animal the officer has reason to believe is dangerous in a manner that protects the public safety, the officer 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 section 3.2-6562 of the Code of Virginia. 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 (Sec. 19.2-260 et seq) of Chapter 15 of Title 19.2 of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(C) 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 or other tort 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 which, 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.

(D) 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.

(E) The owner of any animal found to be a dangerous dog shall, within forty-five (45) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of $150 dollars in addition to other fees that may be authorized by law. The local 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. By January 31 of each year, until such time as the dangerous dog is deceased all certificates obtained pursuant to this subdivision shall be updated and renewed annually for a fee of eighty-five dollars ($85) and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

(F) All dangerous dog certificates or renewals thereof required to be obtained under this Section shall only be issued to persons eighteen (18) 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 spayed or neutered, 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 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.

(G) 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.

(H) The owner shall cause the local 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 of 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) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(I) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (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 ten (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.

(J) 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;

(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.

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.

(K) 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 shall be guilty of a Class 1 misdemeanor. Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this Section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered.

(L) 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 and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under section 3.2-6556 of the Code of Virginia.
(Ord. 2-5-97; Ord. 10-15-03; Ord. 1-17-07; Ord. 11-18-15)

Sec. 4-2-4. Rabies inoculation of dogs and domesticated cats; availability of certificate; penalty for violation.[6]

The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed

[6] For authority to adopt ordinances regarding regulation of animals and prevention of rabies, see Code of Va., §§ 3.2-6537, 3.2-6543, 3.2-6544, 3.2-6545 and 3.2-6525; for penalty for class 3 misdemeanor, see Code of Va., § 18.2-11.

by the United States Department of Agriculture for use in that species.

Every such owner or custodian who shall fail to have such animals currently vaccinated as provided hereinabove shall be deemed to be in violation of this section and shall be punished by a fine of not more than $500 for each such violation.
(Ord. 2-16-00; Ord. 11-18-15)

Chapter 5
BUILDINGS

Article 1. In General.

Sec. 5-1-1. County building department.

Article 2. Building Code.

Sec. 5-2-1. Virginia Uniform Statewide Building Code adopted.
Sec. 5-2-2. Schedule of Building Fees.
Sec. 5-2-3. Copy of Building Code available.
Sec. 5-2-4. Shrink-swell soils policy.

Chapter 5
BUILDINGS

Article 1. In General.

Sec. 5-1-1. County building department.

Pursuant to section 36-105 of the Code of Virginia, there is hereby created a local building department for the county, including a building official, who shall be appointed by the board of supervisors. Within the local building department there shall be a local board of building code appeals whose composition, duties and responsibilities shall be as prescribed in the building code.

Article 2. Building Code.[1]

Sec. 5-2-1. Virginia Uniform Statewide Building Code adopted.

The board of supervisors hereby adopts as the building code of the county the Virginia Uniform Statewide Building Code. (Min. Bk. 7, pp. 203, 239; Comp. 1974, ch. 5; Ord. 4-1-77; Ord. 7-1-84)

Sec. 5-2-2. Schedule of Building Fees.

The following schedule of fees shall be applicable for building permits in Fluvanna County.

(1)	Ordinary repairs as defined in the Building Code	no charge
(2)	Building or structure for farm use	no charge
(3)	Storage structures with unfinished interior (including additions)	
	Residential	.09 sq. ft. with $45.00 minimum
	All other use groups	.15 sq. ft. with $90.00 minimum
(4)	Remodeling (not including Electric, Plumbing, Mechanical)	
	Use groups R5	$65.00

[1] For state law as to the Uniform Statewide Building Code, see Code of Va., § 36-97 et seq. (Ord. 5-21-97)

	All other use groups	$315.00
	Basement finish after original c/o has been issued	.13 sq. ft.
(5)	Moving or relocation (all use groups)	$90.00
(6)	Razing with attached public utilities (all use groups)	$65.00
(7)	One and two family dwelling, computed on outside dimensions of finished living space, each floor (Use Groups R5)	.18 sq. ft. $90.00 minimum
	Basement, unfinished space	.06 sq. ft.
	1 & 2 family additions	same as above $45.00 minimum
(8)	Commercial, Institutional, & Multi-family including additions (Use Groups A, B, I, R, I, & E)	.26 sq. ft. Gross floor area $270.00 minimum
(9)	Industrial & mercantile, including additions (Use Groups F, H, M, & S)	.26 sq. ft. Gross floor area $270.00 minimum
(10)	Plumbing (all use groups)	$30.00 plus $8.00 per fixture
(11)	Mechanical – Heating & A/C	
	Residential (Use Groups R5) – each system	$90.00
	All other use groups	.06 sq. ft. $90.00 minimum
	All other mechanical permits	$45.00
(12)	Electrical (all use groups)	
	All buildings—existing, new, or addition	.06 sq. ft. $45.00 minimum
	All other electrical permits (service change)	$45.00
	Mobile home parks, campgrounds, RV parks	$45.00
	(Temporary service not required if used with building permit for building)	
(13)	Modular homes	
	Slab & crawl space foundation	$250.00
	Basement	$250.00 plus

		.06 sq. ft.
(14)	Manufactured homes:	
	Single wide	$225.00
	Double wide	$315.00
	Basement	.06 sq. ft.
(15)	Swimming pools, excluding electrical	
	Residential	$65.00
	Commercial	$135.00
(16)	Other structures towers, tanks, etc. (excluding electrical, mechanical, plumbing)	$45.00
(17)	Permit renewals	$45.00
(18)	Re-inspection fee	$45.00
(19)	Appeals to board of building code appeals	$90.00
(20)	In addition to the above fees, for all permits for new homes, mobile homes. Multi-family dwellings, Businesses and all other buildings expected to receive, or actually receiving, telephone service	$35.00 for each separate building, plus $55.00 for each addressed unit within any such building

Permit Fee Refunds. In the case of a revocation of a permit or the abandonment of a building project, a refund for the portion of the work that was not completed shall be provided when requested in writing. An administrative fee of 25% and a fee of $30.00 per inspection made shall be retained.

The foregoing notwithstanding, except as otherwise expressly provided by law, none of the fees listed herein shall apply to any property owned by the County and used for County purposes.

(Min. Bk. 7, pp. 203, 239; Comp. 1974, ch. 5; Ord. 4-1-77; Ord. 7-1-84; Ord. 5-21-97; Ord. 7-21-99; Ord. 1-17-01; Ord. 11-20-02; Ord. 8-03-05; Ord. 6-17-09; Ord. 7-6-16)

Sec. 5-2-3. Copy of Building Code available.

A copy of the Virginia Uniform Statewide Building Code is on file in the office of the county building official, where it is open to inspection between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday of each week. The building official will provide information as to where additional copies may be obtained. (Min. Bk. 7, pp. 203, 239; Comp. 1974, ch. 5; Ord. 4-1-77; Ord. 7-1-84)

Sec. 5-2-4. Shrink-swell soils policy.

(A) Prior to the footer inspection, all land being developed for one- and two-family dwellings shall be checked for the presence of shrink-swell soils as a regular part of the building permit application process. This soils check shall be performed in the office of the county building official and shall be accomplished by locating the property in question on the applicable soil map established by the "Soils Survey of Fluvanna County" and identifying all soils with significant (high) shrink-swell potential.

(B) When the soils check required in subsection (A) indicates the presence of significant shrink-swell potential soils, the permit applicant shall be responsible for providing the county building official with a soils test prepared by a certified soil scientist or geotechnical engineer. The soils test shall be based upon a minimum of four borings at the approximate corners of the dwelling. The minimum depth shall be five feet or to auger refusal. Any sample which exhibits high potential shrink-swell soil from the borings within a zone from grade to 24" below the proposed bottom of the footing shall be taken for laboratory testing and a professional report of the results of such testing shall be provided to the county building official along with soil bore logs at the site.

(C) Said professional report shall meet the following minimum requirements:

(1) Include a site sketch to scale which identifies all bore locations at the building site and soil bearing capacity;

(2) Contain the signature and professional seal of the individuals who perform and/or supervise the field testing, laboratory testing and report preparation;

(3) Certify that the laboratory test procedures contain one set of index parameters which are performed using ASTM test procedures or Atterburg Limits;

(4) Identify soil types per the Unified Soil Classifications; and

(5) Include shrink-swell potential (zero/low/moderate/high).

(D) When the soils test required in subsection (B) confirms the presence of significant (high) shrink-swell potential soils at the site of the proposed construction, the permit applicant shall then provide the county building official with a footing/foundation plan for the dwelling designed by a licensed professional engineer to overcome the limitations presented by these soils. Any such footing/foundation plan shall meet or exceed the requirements of the BOCA National Building Code or CABO - One & Two Family Dwelling Code.

(E) In no event shall the foregoing requirements be applicable to the following structures: decks, detached accessory buildings, swimming pools.
(Ord. 11-18-98)

Chapter 5.5

CONSERVATION EASEMENTS PROGRAM

Sec. 5.5-1. Short title.
Sec. 5.5-2. Purpose.
Sec. 5.5-3. Applicability.
Sec. 5.5-4. Definitions and construction.
Sec. 5.5-5. Designation of Program administrator; powers and duties.
Sec. 5.5-6. Eligibility criteria.
Sec. 5.5-7. Easement terms and conditions.
Sec. 5.5-8. Application and evaluation procedure.
Sec. 5.5-9. Program non-exclusivity.

Chapter 5.5
CONSERVATION EASEMENTS PROGRAM[1]

Sec. 5.5-1. Short title.

This Chapter shall be known and may be cited as the "conservation easements program" or "the Program", as the context may require. (Ord. 06-21-06)

Sec. 5.5-2. Purpose.

The board of supervisors finds that a substantial area of rural land in the County has been converted to uses not consistent with or conducive to agriculture, forestry or other traditional rural uses; that regulatory land-use planning tools may not, in themselves, be sufficient to inhibit the conversion of farm and forest land to other uses; and that farm and forest land, clean water and airsheds, biological diversity, scenic vistas and rural character have a public value as well as a private value. Therefore, the board of supervisors has determined that it is advisable to establish a program, pursuant to Virginia Code Sec. 10.1-1700, *et seq.*, by which the County can acquire conservation easements voluntarily offered by owners to serve as one means of assuring that the County's resources are protected and efficiently used; to help in preserving open-space and the rural character of the County by (a) preserving farm and forest lands; (b) conserving and protecting water resources and environmentally sensitive lands, waters and other natural resources; (c) conserving and protecting biodiversity and wildlife and aquatic habitat; (d) improving the quality of life for the inhabitants of the county; (e) assuring availability of lands for agricultural, forestal, recreational, or open-space use; and (f) promoting tourism through the preservation of scenic resources. (Ord. 06-21-06)

Sec. 5.5-3. Applicability.

The Program shall be available for all lands in the County, except those lands under the ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. Any conservation easement acquired under the Program shall be voluntarily offered by the owner. Each such easement shall be subject to the approval of the board of supervisors to determine that the acceptance of such easement shall further the purposes of this Chapter in accordance with Sec. 5.5-6. (Ord. 06-21-06)

Sec. 5.5-4. Definitions and construction.

[1] Ordinance adopted 6-21-06 enacting Chapter 5.5, Conservation Easements Program, is effective on and after July 1, 2006.

(A) The following definitions shall apply in the interpretation and implementation of the Program:

(1) *Conservation easement* means a nonpossessory interest of the County in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

(2) *Program administrator* means the director of the department of planning and development.

(3) *Parcel* means a lot or tract of land, lawfully recorded in the clerk's office of the circuit court of the County, or any lawfully described portion of such lot or tract.

(B) Construction. Because a conservation easement may contain one or more parcels, for purposes of the Program the term "parcel" shall include all parcels covered by, or proposed to be covered by, a particular conservation easement.
(Ord. 06-21-06)

Sec. 5.5-5. Designation of Program administrator; powers and duties.

(A) Designation. The director of the department of planning and development is hereby designated as the Program administrator.

(B) Powers and duties. The Program administrator, or his designee, shall administer the Program and shall have the powers and duties to:

(1) Establish reasonable and standard procedures and forms for the proper administration and implementation of the Program.

(2) Promote the Program by providing educational materials to the public, conducting informational meetings and otherwise.

(3) Investigate and pursue state, federal and other programs available to maximize private participation.

(4) Evaluate all applications to determine their eligibility and make recommendations thereon to the board of supervisors.

(5) Provide educational materials regarding other land protection programs to the public.

(6) For each conservation easement, assure that the terms and conditions of the deed of easement are monitored and complied with by coordinating a monitoring program with each easement holder, and if the other easement holders are either unable or unwilling to do so, monitor and assure compliance with the terms and conditions of the deed of easement.

(Ord. 06-21-06)

Sec. 5.5-6. Eligibility criteria.

In determining whether to accept a proposed conservation easement, the board of supervisors shall consider the following criteria:

(i) the use of the parcel subject to the conservation easement shall be consistent with the comprehensive plan as in effect at the time of the proposed dedication; (ii) the proposed terms of the conservation deed of easement shall be consistent with the minimum terms and conditions set forth in Sec. 5.5-7; and (iii) the acceptance of the proposed conservation is consistent with the purposes of this Chapter.

(Ord. 06-21-06)

Sec. 5.5-7. Easement terms and conditions.

Each conservation easement shall conform with the requirements of the Open-Space Land Act of 1966 (section 10.1-1700 et seq. of the Code of Virginia) and of this Chapter. The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the following provisions:

(A) Restriction on division. No parcel shall be divided so as to create any parcel containing less than one hundred (100) acres.

(B) No buy-back option. The owner shall not have the option to reacquire any property rights relinquished under the conservation easement.

(C) Other restrictions. The parcel also shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but

not necessarily be limited to, restrictions pertaining to: (i) the accumulation of trash and junk; (ii) the display of billboards, signs and advertisements; (iii) the management of forest resources; (iv) grading, blasting or earth removal; (v) the number and size of residential outbuildings and farm buildings or structures; (vi) the conduct of industrial or commercial activities on the parcel; and (vii) monitoring of the easement.
(Ord. 06-21-06)

Sec. 5.5-8. Application and evaluation procedure.

Each application for a conservation easement shall be processed as follows:

(A) Application materials to be provided to owner. The application materials provided by the Program administrator to an owner shall include, at a minimum, a standard application form, a sample deed of easement, and information about the Program.

(B) Application form. Each application shall be submitted on a standard form prepared by the Program administrator. The application form shall require, at a minimum, that the owner: (i) provide the name of all owners of the parcel, the address of each owner, the acreage of the parcel, the County tax map and parcel number, the zoning designation of the parcel, and permission for the Program administrator to enter the property after reasonable notice to the owner to evaluate the parcel. The application form shall also include a space for an owner to indicate whether he volunteers to have the parcel be subject to greater restrictions than those contained in the standard sample deed of easement, and to delineate those voluntary, additional restrictions.

(C) Additional application information required by Program administrator. The Program administrator may require an owner to provide additional information deemed necessary to determine whether the proposed easement can be recommended for acceptance.

(D) Submittal of application. Applications shall be submitted to the office of the Program administrator. An application may be submitted at any time.

(E) Evaluation by Program administrator. The Program administrator shall evaluate each application received and determine within fifteen (15) days whether the application is complete. If the application is incomplete, the Program administrator shall inform the owner in writing of the information that must be submitted in order for the application to be deemed complete. When an application is deemed complete, the Program administrator shall determine whether, in his judgment, the proposed easement satisfies the eligibility criteria set forth in Sec. 5.5-6.

(F) Evaluation by board of supervisors. The board of supervisors shall review the proposed easement and determine whether or not the same should be accepted. The determination as to whether or not a particular easement should be accepted shall be in the sole discretion of the board of supervisors, and nothing in this Chapter shall obligate the board to accept a particular conservation easement.

(G) Reapplication. An owner whose proposed conservation easement is not accepted may reapply at a later time.

(H) Easement established. A conservation easement shall be deemed to be accepted when all the owners of the subject parcel shall have signed the deed of easement; such deed of easement shall have been approved in writing as to form by the county attorney; and the same shall have been accepted by an authorized agent of the board of supervisors on its behalf. The deed shall be recorded in the office of the clerk of the circuit court of the County at the expense of the applicant. A single conservation easement may be established for more than one parcel under the same ownership.

(I) Costs. The applicant shall be solely responsible for the cost of preparing and recording each such easement, including, but not necessarily limited to, environmental site assessments, surveys, recording costs and other charges associated with closing; and shall pay to the County a fee sufficient to defray the actual and reasonable expenses of the County's review of the application and the proposed deed of easement. The amount of such fee shall be established by resolution of the board of supervisors. The County shall not pay fees incurred for independent appraisals, legal, financial, or other advice, or fees in connection with the release and subordination of liens to the easement conveyed to the County.
(Ord. 06-21-06)

Sec. 5.5-9. Program non-exclusivity.

This Chapter shall not be construed in any way as a limitation upon the County's authority to acquire land for public purposes, nor shall this Chapter be construed to prohibit the holding of easements for conservation of resources by entities other than, or in conjunction with, the County. (Ord. 06-21-06)

Chapter 6

EROSION AND SEDIMENTATION CONTROL

Article 1. In General.

Sec. 6-1-1. Purpose.
Sec. 6-1-1.1. Authority.
Sec. 6-1-2. Definitions.
Sec. 6-1-3. Erosion and sedimentation control plan required; applicability of Chapter.
Sec. 6-1-4. Erosion and sedimentation control plan standards and techniques; procedures generally.
Sec. 6-1-5. Fees generally.
Sec. 6-1-5.1. Reserved.
Sec. 6-1-6. Plan approval generally; changes in approved plans.
Sec. 6-1-7. Approved plan required for issuance of building permit or other development permits; certification; bonding of performance.
Sec. 6-1-8. Inspection and enforcement generally.
Sec. 6-1-9. Erosion impact areas.
Sec. 6-1-10. Administrative appeal; judicial review.
Sec. 6-1-11. Violations and penalties.
Sec. 6-1-12. Conflicting requirements.

Article 2. Procedures for Plan Submission and Review, On-site Inspection and Chapter Enforcement.

Sec. 6-2-1. Plan submission and preliminary erosion and sediment control plans.
Sec. 6-2-2. Preliminary plan for discussion, etc., purposes.
Sec. 6-2-3. Department responsible for administering program.
Sec. 6-2-4. Plan review and approval procedures generally.
Sec. 6-2-5. Issuance of grading, building or other permits.
Sec. 6-2-6. Performance bond, cash escrow, letter of credit, etc.
Sec. 6-2-7. Erosion and sediment control agreement providing for right-of-entry, etc.
Sec. 6-2-8. Appeal of decision of administrator, etc.
Sec. 6-2-9. Responsibility of administrator for on-site inspections, enforcement of Chapter, etc.

Chapter 6
EROSION AND SEDIMENTATION CONTROL[1]

Sec. 6-1-1. Purpose.

The purpose of this Chapter is to conserve the land, water, air and other natural resources of the County and promote the public health and welfare of the people in the County by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced. (Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-1-1.1. Authority.

The County of Fluvanna has authority to establish the erosion and sedimentation controls described herein pursuant to section 62.1-44.15:54 of the Code of Virginia. (Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-2. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Administrator. The official designated by the governing body to serve as its agent to administer this Chapter, or his designee. The county administrator for the County is hereby designated as administrator of this Chapter.

Agreement in Lieu of a Plan. A contract between the plan-approving authority and the owner, specifying conservation measures which must be implemented in the construction of a single-family residence; 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.

Board. The Board of Supervisors of the County of Fluvanna.

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[1] For state law as to erosion and sediment control, see Code of Va., § 62.1-44.15:51 et seq.

Editor's note. - - The Ordinance adopted 6-20-07 amended and reenacted this Chapter 6, Erosion and Sedimentation Control.

Certified inspector. An employee or agent of the County who has been designated as such by the 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 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, 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 amended, or professional soil scientist as defined in section 54.1-2200 of the Code of Virginia, as amended.

Certified program administrator. A County employee or agent designated as such by the 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 the cutting or removal of vegetation, root material or topsoil.

County. The County of Fluvanna.

Erosion and sedimentation control plan or plan. A document containing material for the conservation of soil and water resources of a unit or a group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, 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.

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 condition.

Land-disturbing activity. Any man-made change to the land surface which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands including, but not limited to, clearing, grading, excavating, transporting, and filling of the land or any combination thereof. The following activities shall not be construed as "land disturbing activities" under this ordinance:

(A) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.

(B) Individual service connections.

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

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

(E) Intentionally omitted.

(F) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1.

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

(H) Disturbed land areas for commercial or noncommercial uses of less than 10,000 square feet in size.

(I) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.

(J) Emergency work to protect life, limb and 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, the land area disturbed shall be shaped and stabilized in accordance with the requirement of the VESCP authority.

(K) Tilling, planting, or harvesting of agricultural, horticultural, forest crops, livestock feedlot operations, or as additionally set forth by the Virginia Soil and Water Conservation Board in regulation; including engineering and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Virginia Code section 10.1-604 et seq, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing; land drainage; 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 Virginia Code section 10.1-1100 et seq or is converted to bona fide agriculture or improved pasture use as described in subsection B of Virginia Code section 10.1-1163.

Land disturbing permit. A permit issued by the County for clearing, filling, excavating, grading or transporting, or any combination thereof.

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 the local permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Plan approving authority. The county administrator shall be the plan approving authority.

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

Responsible Land Disturber. An individual from the project 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 I (Virginia Code Sec. 54.1-40, et seq.) of Chapter 4 of Title 54.1.

Single-family residence.[2] A structure, other than a multi-family residential structure, maintained and used as a single dwelling unit or any dwelling unit which has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment nor any other essential facility or service with any other dwelling unit.

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

Subdivision.[3] See definition contained in the Fluvanna County Subdivision Ordinance.

Transporting. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Virginia Erosion and Sediment Control authority (VESCP authority). An authority approved by the Virginia Soil and Water Conservation Board to operate a VESCP. In Fluvanna County this is the county administrator or "administrator."

Virginia Erosion and Sediment Control Program (VESCP). A program approved by the Virginia Soil and Water Conservation Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this section, and evaluation consistent with the requirements of this section and its associated regulations.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-3. Erosion and sedimentation control plan required; applicability of Chapter.

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[2] For state law reference, see Code of Va., § 55-248.4.

[3] *Editor's note*. - - The Fluvanna County Subdivision Ordinance is found in Chapter 19 of this Code.

(A) Pursuant to section 62.1-44.15:54 of the Code of Virginia, Fluvanna County hereby adopts the references, guidelines, standards and specifications promulgated by the Virginia Soil and Water Conservation Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications are included in but not limited to the "Virginia Erosion and Sediment Control Regulations," the "Virginia Erosion and Sediment Control Handbook" and "Virginia Stormwater Management Handbook" as amended.

(B) Except as otherwise provided in this Chapter, no person may engage in any land disturbing activity until such person has submitted to the administrator an erosion and sediment control plan for such land-disturbing activity and until that plan for such land-disturbing activity has been reviewed and approved by the administrator. Upon the development of an online reporting system by the Virginia Department of Environmental Quality, the administrator shall obtain evidence of Virginia Stormwater Management Program permit coverage where it is required prior to providing approval to being land disturbance.[4]

(C) The provisions of this Chapter shall apply to all incorporated towns within the boundaries of the County, unless the governing body of any such town has, by appropriate action, adopted an Erosion and Sedimentation Control program specific to its jurisdiction.

(D) Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sedimentation control specifications annually with the Virginia Soil and Water Conservation Board for review and written comments.

(E) The provisions of this Chapter shall not apply to state agency projects, except as provided for in section 62.1-44.15:56 of the Code of Virginia.

(F) A plan for which land-disturbing activities involving lands under the jurisdiction of the County and one or more other localities may, at the option of the applicant, be submitted to the state division of soil and water conservation for the review and approval, rather than submission to each jurisdiction concerned. However, if the applicant chooses to submit his plans to the state division of soil and water conservation rather than the local jurisdiction he shall notify, by certified mail, the administrator of his intention at the same time of submittal.

(G) The requirements of this Chapter shall be integrated and implemented in conjunction with any project requiring compliance prior to any land disturbing activity, including subdivisions, site plans, and any other plans of development; those projects within the flood

[4] For state law reference, see Code of Va., § 62.1-44.15:55.

hazard overlay district established in the Zoning Ordinance, Chapter 22 of this Code; and any dam break inundation zone that has been mapped as provided in section 10.1-606.3 of the Code of Virginia.[5]
(Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-4. Erosion and sedimentation control plan standards and techniques; procedures generally.

An erosion and sedimentation control plan is required under this Chapter. The erosion and sedimentation control plan shall detail those methods and techniques to be utilized in the control or erosion and sedimentation. The control plan will follow the format of the Virginia Erosion and Sediment Control Handbook.

Persons submitting plans under this Chapter shall follow the procedures set forth in Article 2 of this Chapter entitled, "Procedures for Plan Submission and Review, On-site Inspection and Chapter Enforcement".
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-1-5. Fees generally.

The following fees for the land-disturbing permits and related reviews pursuant to this Chapter shall be paid. The purpose of these fees is to defray the cost of program administration, including costs associated with the issuance of grading or land disturbing permits, plan review, and periodic inspections for compliance with erosion and sediment control plans. The fee schedule set forth in this section shall supersede any fee schedule previously adopted with respect to such permits and related reviews.

Single Family	$125.00 per lot
All Other	$550.00 plus $125/ac. (or portion) over one acre for work to be completed within[6] 12 mo. $500.00 plus $50.00/ac. (or portion over one acre for additional 12 mo. (24 mo. total) $500.00 for each additional 12 mo. (over 24 mo. total) $250.00 initial plan review fee

[5] For state law reference, see Code of Va., § 62.1-44.15:51.D.

[6] *Editor's note* -- "with" in original; clerical error corrected.

	$100.00 per. re-review fee

The foregoing notwithstanding, except as otherwise expressly provided by law, none of the fees listed herein shall apply to any property owned by the County and used for County purposes.

(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 6-17-09; Ord. 7-6-16)

Sec. 6-1-5.1. Reserved.

Sec. 6-1-6. Plan approval generally; changes in approved plans.

(A) The administrator shall, within forty-five (45) days of receipt of the plan, give written notice of approval to any erosion and sediment control plan submitted to the administrator if it is determined that the plan meets the requirements of this Chapter and the regulations of the Virginia Soil and Water Conservation Board, and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this Chapter. In addition, as a prerequisite to engaging in the land-disturbing activities described in the approved plan, the person responsible for carrying out the 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 shall be a violation of this Chapter. Under the provisions of this ordinance, the owner of the property in question is ultimately responsible for the preparation, submission and approval of the erosion and sediment control plan.

(B) When a plan is determined to be inadequate, the administrator shall, within forty-five (45) days from receipt, give written notice of disapproval stating the specific reasons for disapproval. The administrator shall specify such modifications terms and conditions as will permit approval of the plan and shall communicate these requirements to the applicant. If no action is taken by the administrator within the time specified above, the plan shall be deemed approved and the person shall be authorized to proceed with the proposed activity. The administrator shall act on any erosion and sediment control plan that has been previously disapproved within forty-five (45) days after the plan has been revised, resubmitted for approval, and deemed adequate.

(C) The administrator may require changes to any approved plan in the following cases:

(1) Where inspection has revealed the inadequacy of the plan to accomplish the objectives of this Chapter and to satisfy applicable regulations; or

(2) Where the person responsible for carrying out the approved 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 and associated regulations, are agreed to by the administrator and the person responsible for carrying out the plan.

(D) All requests for variances must be made in writing, and approved in writing by the administrator, and must be made in accordance with 9VAC25-840-40.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-7. Approved plan required for issuance of building permit or other development permits; certification; bonding of performance.[7]

(A) The building official, or any agent of the County, shall not issue any building or other permits for activities which involve land-disturbing activities, as defined by this Chapter, unless the applicant submits with his application an approved erosion and sediment control plan or certification of such approved plan from the administrator, certification that such plan will be followed, evidence of Virginia Stormwater Management Program permit coverage, where required, and written permission for the administrator (or his agent) to conduct on-site inspections of the land-disturbing activity and of the conservation practices set forth in the plan.

(B) The administrator, prior to approval of any erosion and sedimentation control plan, shall require of the applicant a reasonable performance bond with surety, cash escrow, letter of credit, or combination thereof, or such other legal arrangement as is acceptable to the administrator to insure that measures could be taken by the County at the expense of the person conducting the land-disturbing activity should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him in order to be in compliance with this Chapter. The amount of the bond or other security 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 Fluvanna and a reasonable allowance for estimated administrative costs and inflation, not to exceed twenty-five percent (25%) of the estimated cost of the conservation action.

(C) If the County takes such measures upon such failure by the person conducting the land-disturbing activity and the costs of required corrective action exceed the security held, the

[7] For state law reference, see Code of Va., § 62.1-44.15:57.

administrator may collect from such person the difference between the cost of the corrective action required and amount of the security held.

(D) Within sixty (60) days of the stabilization of the land-disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the owner or his agent or terminated, as the case may be. (Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-8. Inspection and enforcement generally.[8]

(A) Inspection and degree of enforcement of this Chapter shall rest with the administrator.

(B) The administrator shall periodically inspect the land-disturbing activity, in accordance with 9VAC25-840-60**,** to ensure compliance with the approved plan and to determine whether the measures required in that plan are effective in controlling erosion and sediment resulting from the land-disturbing activity. The administrator may require monitoring and reports from the person responsible for carrying out the plan. Furthermore, the County may inspect, monitor, and make reports for the administrator, upon request. The right of entry to conduct such inspection shall be expressly reserved in the permit. The person responsible for carrying out the plan, or his duly designated representative, shall be given notice of the inspection and afforded the opportunity to accompany the inspectors.

(C) If the administrator determines that the person responsible for carrying out the plan has failed to do so, the administrator shall immediately serve such person with a notice to comply by registered or certified mail to the address specified in his permit application or by delivery at the site of the land-disturbing activity to the owner, agent or employee supervising such activities. Such notice shall set forth specifically the measures needed in order for the site to come into compliance with such plan and shall specify the time within which such measures shall be completed. If such person fails to comply within the time specified, the permit may be revoked and the permittee or the person responsible for carrying out the plan shall be deemed to be in violation of this Chapter and upon conviction shall be subject to the penalties provided for herein.

(D) Upon issuance of an inspection report denoting a substantial violation of this Chapter, the administrator may, in conjunction with or subsequent to a notice to comply as specified above, 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 or, if land-disturbing activities have commenced without an approved erosion and sediment control plan,

[8] For state law reference, see Code of Va., § 62.1-44.15:58.

requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where alleged noncompliance causes or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection (C) of this section. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven (7) days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall be lifted immediately. The remedies provided for in this section are cumulative and shall not be construed to prevent the administrator from taking any other action allowed by law.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-9. Erosion impact areas.

The Board may designate areas in the County which shall be classified as erosion impact areas. Any such designation and classification shall be deemed to be a component of the local control program.

Consistent with this Chapter, and in order to prevent further erosion, the administrator may require the approval of a conservation plan for any erosion impact area. Such plan shall be subject to all review, bonding, inspection and enforcement provisions of this Chapter which apply to approved land-disturbing permits. The plan shall be submitted by the property owner.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-1-10. Administrative appeal; judicial review.

Final decisions of the administrator under this Chapter shall be subject to review by the Board; provided, that an appeal is filed within thirty (30) days from the date of any written decision by the administrator.

Final decisions of the Board under this Chapter shall be subject to review by the court of record of the County; provided, that an appeal is filed within thirty (30) days from the date of final written decision.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-1-11. Violations and penalties.[9]

[9] For state law reference, see Code of Va., § 62.1-44.15:63.

(A) A violation of this Chapter shall be deemed a Class 1 misdemeanor.

(B) The administrator may apply to the circuit court of the County for injunctive relief to enjoin a violation or a threatened violation of this Chapter, without the necessity of showing the nonexistence of an adequate remedy at law.

(C) In addition to any and all other remedies provided under this Chapter, any person who violates any provision herein shall be liable to the County in a civil action for damages.

(D) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the state soil and water conservation board or the administrator, such board or administrator may provide an order against such person for the payment of civil charges for violations in specific sums not to exceed $2000 for each violation. The administrator shall establish a schedule enumerating the violations and the associated civil charges.

(E) The Commonwealth's attorney, shall, upon request of the administrator, take legal action to enforce the provisions of this Chapter.

(F) Compliance with the provisions of this Chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion 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 administrator from or be a prerequisite to the administrator taking any other action allowed by law or equity to remedy noncompliance with this Chapter.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-1-12. 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.
(Ord. 6-20-07)

Article 2. Procedures for Plan Submission and Review, On-site Inspection and Chapter Enforcement.

Sec. 6-2-1. Plan submission and preliminary erosion and sediment control plans.

(A) *Generally*. The applicant under this Chapter shall submit five copies of black or blue-line plans with a letter of transmittal. Such letter of transmittal shall contain:

(1) The name, address and phone number of the applicant.

(2) The name, address and phone number of the landowner of record.

(3) The name, address and phone number of the person responsible for carrying out the plan.

(4) Location of the site, including lot number and tax map number.

(5) Other information as may be requested by the plan approving authority.

(B) *Final plan*. The final plan shall consist of the narrative and maps as described in the Virginia Erosion and Sediment Control Handbook.

(1) The maps shall be prepared at a scale of not less than 1" = 100' and shall incorporate good engineering practices designed according to E & S Control Handbook guidelines.

(2) The map shall contain all information necessary for carrying out the conservation measures and will include a graphic scale, north arrow, date, owners of record, engineers certification (if required), approval signature block, vicinity map and contour lines.

(3) The map shall show other information as required by the administrator.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-2-2. Preliminary plan for discussion, etc., purposes.

The applicant under this Chapter may submit a preliminary erosion and sediment control plan for the purpose of discussion and advice. The preliminary plan should be clearly marked "Preliminary," should not be cluttered with detailed control measures, and may contain the following information:

(A) All major soil types.

(B) Approximate limits of clearing and grading.

(C) Tentative means of erosion and sediment control.

(D) Phasing of development to minimize area and duration of exposure.

(E) Contour lines.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord,. 7-16-03; Ord. 6-20-07)

Sec. 6-2-3. Department responsible for administering program.

All correspondence and plans should be directed to the administrator. (Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-2-4. Plan review and approval procedures generally.

(A) The county administrator has been designated as the plan-approving authority.

(B) In reviewing plans, the administrator may seek or receive recommendations or comments from the state department of transportation, health department and such other agencies deemed to have some responsibility in this area.

(C) (1) The preparation and submission of an erosion and sediment control plan to the administrator shall be the responsibility of the owner, lessee, or duly authorized agent of either the owner or lessee.

(2) In determining the adequacy of the plan, the administrator shall be guided by the recommendations contained in the Virginia Erosion and Sediment Control Handbook.

(3) The plan shall be approved, in writing, within forty-five (45) days from the receipt thereof, if such plan meets the requirements of this Chapter and the regulations of the Virginia Soil and Water Conservation Board, and if the person responsible for carrying out the plan certifies that he will properly perform the control measures included in the plan as required by this Chapter.

(4) If the plan is disapproved, within forty-five (45) days from the receipt thereof, the administrator shall specify in writing such modification, terms and

conditions as will permit approval of the plan and communicate these requirements to the applicant. The administrator shall act on any erosion and sediment control plan that has been previously disapproved within forty-five (45) days after the plan has been revised, resubmitted for approval, and deemed adequate.

(5) If no action is taken by the administrator within forty-five (45) days of receipt of the plan, the plan shall be deemed approved. Certification of this fact shall be provided by the administrator to the permit issuing authority issuing building or other permits for the activities involving land-disturbing activities so that such permits may be issued.

(6) The administrator may require changes to an approved plan:

(a) Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objective of this Chapter and applicable regulations, plan changes may be required without approval of the person responsible for carrying out the plan in order to comply with the minimum standards promulgated by the Virginia Soil and Water Conservation Board and set forth in the Virginia Erosion and Sediment Control Handbook, which are assumed to be an integral part of every plan; or

(b) Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and the proposed amendments to the plan, consistent with the requirements of this Chapter and applicable regulations, are agreed to by the administrator and the person responsible for carrying out the plan.

(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; 11-18-15)

Sec. 6-2-5. Issuance of grading, building or other permits.

(A) The building official or any other agency authorized under any other provision of this Code or other law to issue building or other permits for land-disturbing activities shall not issue such permits unless:

(1) The applicant submits with his application the approved erosion and sediment control plan and certification that the plan will be followed, and evidence of Virginia Stormwater Management Program permit coverage, where it is required; or

(2) The applicant provides certification by the administrator of such approved plan from the administrator or certification by the administrator that a plan was submitted and no action was taken within forty-five (45) days; or

(3) The applicant provides certification from the state division of soil and water conservation, when applicable as specified herein, that the erosion and sediment control plan has been approved, and the applicant provides certification that the plan will be followed, and evidence of Virginia Stormwater Management Program permit coverage, where it is required.

(B) When the administrator does not have in hand a certification that the person responsible for carrying out the plan has certified that he will properly perform the control measures included in the plan, the administrator shall obtain the certification or performance prior to issuance of the permit.
(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-2-6. Performance bond, cash escrow, letter of credit, etc.

(A) *Generally.* Bonding requirements are a necessary element of an effective control program.

(1) Bond: A bond with surety or other security approved by the administrator made out to the Board in an amount equal to the full cost of conservation measures which are required by this Chapter, such bond being legally sufficient to assure that such conservation measures will be carried out in accordance the provisions of this Chapter.

(2) Escrow agreement: A fund delivered to a reputable banking institution by the applicant to be held by the bank until such time that all conservation measures have been performed as required by this Chapter.

(3) Letter of Credit: An agreement by a bank made at the request of a customer to honor drafts or demands for payment by the County in the event of the failure of a person to whom a land-disturbing permit has been issued to perform the requirements of an E&S plan as required by this Chapter. Such letters of credit shall be accepted only if written by a bank with an office operating within the Commonwealth and shall be in an amount equal to the full cost of conservation measures which are required by this Chapter.

(B) *Amount of coverage.* The amount of coverage shall equal the total cost of the conservation measures. The amount will be determined by the administrator or other acceptable person and shall be reviewed by the administrator.

(C) *Required for each project, etc.* Bonding in some acceptable manner shall be required on each project to ensure that the conservation measures could be taken by the County, at the applicant's expense, should he fail within the time specified to initiate appropriate conservation action which may be required as a result of his land-disturbing activities. Such requirement will be a condition for issuance of building or other permits.

(1) No permit for building or other permits involving land-disturbing activities shall be issued by any department or agency of the County, until the requirements of this Chapter and the erosion and sediment control program have been met with respect to the performance bonding.

(2) Certified checks shall be made payable to the Treasurer of Fluvanna County.

(3) Within sixty (60) days of the adequate stabilization of the land-disturbing activities, such bond, cash escrow or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be.

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

(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

Sec. 6-2-7. Erosion and sediment control agreement providing for right-of-entry, etc.[10]

A legal instrument shall be executed by each applicant for an approved erosion and sediment control plan to provide right-of-entry by the appropriate persons for the purpose of inspection, monitoring, and installation, or maintenance of erosion and sediment control measures in the event the applicant fails to install or maintain such measures after notice in writing. (Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)

Sec. 6-2-8. Appeal of decision of administrator, etc.

An appeal made pursuant to this Chapter shall be filed with the Board within thirty (30) days of the date of any decision of the administrator. (Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

[10] For state law reference, see Code of Va., § 62.1-44.15:60.

Sec. 6-2-9. Responsibility of administrator for on-site inspections, enforcement of Chapter, etc.

The administrator shall be responsible for the enforcement of this Chapter and will direct the on-site inspection of each project. The administrator shall also:

(A) Be responsible for developing and implementing a systematic program for on-site inspection to ensure that the erosion and sediment control measures on approved erosion control plans are actually provided.

(B) Be responsible for developing and maintaining a file system by land-disturbing projects. The file will contain a record of each inspection, date of inspection, date each land-disturbing activity commences and comments and other documents deemed necessary concerning compliance or noncompliance. The administrator may require monitoring and reports from the person responsible for carrying out the plan. Furthermore, the County may inspect, monitor and make reports for the administrator upon request.

(C) In cases of noncompliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced or completed. Such reports will be communicated immediately to the proper authority.

(D) Upon determination that a violation exists, the administrator shall prepare:

(1) *Notice to comply, etc.* A notice to comply which shall contain a detailed description of the conservation measures necessary for compliance. When no action is taken within forty-eight (48) hours of delivery of the notice to comply, the administrator shall prepare a letter of intent to utilize the performance bond, cash escrow or letter of credit to apply the conservation measures to correct the deficiency. This letter of intent will be cleared by the County Attorney and sent by registered mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, depending on the urgency of the action, the building official will be requested in writing, with a copy to the person responsible for carrying out the plan, to undertake the corrective measures.

(2) *A stop work order:*

(a) The administrator may issue a stop work order on all or part of a land-disturbing activity if a permit holder fails to comply with a notice to comply as provided for in paragraph (1) of this subsection.

(b) The administrator may issue a stop work order on all or part of a land-disturbing activity without first issuing a notice to comply if 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.

(c) The administrator shall issue a stop work order on all land-disturbing activity which is regulated by this Chapter which has commenced without an approved plan or permit.

(d) Reserved.

(e) The administrator shall notify all permit issuing authorities to withhold all future permits to the permit holder until the violation is corrected, and, upon failure to comply within the time specified in the notice to comply, the permit for the project in violation may be revoked.

(f) The administrator shall be responsible for handling complaints concerning absent or ineffective erosion control measures and will respond to a complaint within fifteen (15) days.

(g) When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures comply with the erosion control plan, the administrator shall be notified and shall act pursuant to Sections 6-1-4, 6-1-6 and 6-1-7 of this Chapter.[11]

(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)

[11] *Editor's note.* – The ordinance adopted 7-16-03 continued from the previous ordinance the reference in subsection (g) to sections 6-1-5, 6-1-7 and 6-1-8. Those sections were amended and renumbered to 6-1-4, 6-1-6 and 6-1-7 in the 7-16-03 ordinance. Accordingly, the editor made the clerical correction in the text of the Code. The 6-20-07 ordinance contained the corrected numbering.

Chapter 7

FESTIVALS, DANCE HALLS AND CARNIVALS, ETC.

Article 1. Festivals.

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Chapter 7
FESTIVALS, DANCE HALLS AND CARNIVALS, ETC.

Article 1. Festivals.

Sec. 7-1-1. Authority; purpose.

This Article is enacted pursuant to section 15.2-1200 of the Code of Virginia for the purpose of providing necessary regulations for the conducting 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 the public health, safety and welfare of the citizens and inhabitants of the county. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6; Ord. 11-18-15)

Sec. 7-1-2. Definitions.

When used in this Article, the following words shall have the meanings respectively ascribed to them in this section:

Board shall mean the board of supervisors of the county.

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. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6)

Sec. 7-1-3. Special entertainment permit - - Required.

No person shall stage, promote or conduct any musical or entertainment festival in the unincorporated areas of the county unless there shall have been first obtained from the board a special entertainment permit for such festival. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6)

Sec. 7-1-3.1. Same - - Application - - Generally.

Applications for special entertainment permits required by this Article shall be in writing on forms provided for the purpose and filed in duplicate with the clerk of the board at least forty-five (45) days before the date of such festival and shall be accompanied by a $200 application fee, which shall not be returned. Such applications shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this Article. A copy of such applications shall be sent by certified mail by the clerk to each

member of the board the day such applications are filed. The board shall respond to the application within thirty (30) days of receipt of the complete application and fee. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6; Ord. 11-18-15)

Sec. 7-1-3.2. Same - - Same - - Action by board; issuance or refusal of permit.

The board shall act on applications required by this Article within thirty (30) days from the filing of the same. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the clerk to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein, and mailed by the clerk to the applicant at the address indicated. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6; Ord. 11-18-15)

Sec. 7-1-3.3. Same - - Same - - Conditions for issuance of permit; documents to accompany application.

The permit required by this Article shall not be issued unless the following conditions are met and the following plans, statements and approvals submitted to the board with the application:

(A) Such application for a special entertainment permit shall have attached to it a copy of the ticket or badge of admission to such festival, containing the date or dates and time or times of such 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 such festival.

(C) A statement of the location of the proposed festival, the name and address of the owner of the property on which such 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 county health officer.

(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 county health officer.

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

(G) A plan for adequate parking facilities and traffic control in and around the festival area.

(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 county forest warden.

(I) A statement specifying whether any outdoor lights or lighting is to be utilized, and if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow 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.
(Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6)

Sec. 7-1-4. When music or entertainment prohibited.

Music shall not be rendered nor entertainment provided for more than eight (8) hours in any twenty-four (24) hour period, such twenty-four (24) hour periods to be measured from the beginning of the first performance at such festival. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6)

Sec. 7-1-5. Minors to be accompanied by parent or guardian.[1]

No person under the age of eighteen years of age shall be admitted to any festival unless accompanied by a parent or guardian, the parent or guardian to remain with such person at all times. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6; Ord. 11-18-15)

Sec. 7-1-6. Right of entry of board, etc.

No permit shall be issued under this Article unless the applicant shall furnish to the board written permission for the board, its lawful agents or duly constituted law enforcement

[1]For state law as to authority of county to regulate minors in public places of amusement, see Code of Va., § 15.2-926(B).

officers to go upon the property at any time for the purpose of determining compliance with the provisions of this Article. The board shall have the right to revoke any permit issued under this Article upon noncompliance with any of its provisions and conditions. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6)

Sec. 7-1-7. Construction of Article.

The provisions of this Article shall be liberally construed in order to effectively carry out the purposes of this Article in the interest of the public health, welfare and safety of the citizens and residents of the county. (Min. Bk. 6, pp. 423-426; Comp. 1974, ch. 6)

Article 2. Dance Halls.[2]

Sec. 7-2-1. Hours of operation.

It shall be unlawful for any person to operate or conduct a public dance hall between the hours of 2 A.M. Sunday and 12:01 A.M. Monday within the county. (Min. Bk. 5, p. 183; Comp. 1974, ch. 6; Ord. 4-1-85)

Article 3. Carnivals, Circuses, Side Shows, Etc.[3]

Sec. 7-3-1. Registration and permit required.

It shall be unlawful for any person to promote, sponsor, operate or exhibit in the county any carnival, circus, side show, trained animal show, menagerie, speedway or any other show, exhibit or performance similar thereto, without first registering with the sheriff's office of this county, furnishing the information required by this Article and obtaining the permit required hereby. (Min. Bk. 4, p. 392; Min. Bk. 6, p. 118; Comp. 1974, ch. 6)

Sec. 7-3-2 . Information to be furnished; issuance and term of permit.

Every person engaging in any of the acts set forth in section 7-3-1 shall furnish to the sheriff's office his name, temporary address, permanent address, the name of the firm or company, if any, which he represents, the address of such firm or company, the type and size of the show, exhibit or performance for which the permit is requested, and the place and time

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[2] For state law as to regulation of dance halls by counties, see Code of Va., § 15.2-912.3.

[3] For state law as to authority of county to license carnivals, etc., see Code of Va., § 58.1-3728.

or times when such shows, exhibitions or performances are to take place. Upon receiving such information the sheriff's office shall provide such person with a written permit showing due registration, and the place and time or times for which permit is issued. No permit shall be issued or valid for a period of longer than six (6) consecutive days. (Min. Bk. 4, p. 392; Min. Bk. 6, p. 118; Comp. 1974, ch. 6)

Sec. 7-3-3. License tax imposed; permit prerequisite to issuance of license; term of license.

There is hereby imposed a license tax of one hundred dollars ($100) upon every person which exhibits within this county any carnival, circus, side show, trained animal show, menagerie, speedway, or any other show, exhibition or performance similar thereto as set forth in section 7-3-1. Such license shall be obtained from the commissioner of revenue, but no such license shall be granted until the permit from the sheriff's office required by this Article has been obtained. Such license shall be valid for a period not exceeding six (6) consecutive days. (Min. Bk. 4, p. 392; Min. Bk. 6, p. 118; Comp. 1974, ch. 6)

Sec. 7-3-3.1. Certain organizations exempt from license tax; proviso.

Any show, exhibition or performance by Fluvanna resident mechanics or artists exhibiting their own work, residents performing for charity or other benevolent purposes, volunteer fire companies, and bona fide local associations or corporations organized for the principal purpose of holding legitimate agricultural or industrial arts exhibitions shall be exempt from licensing fees.

However, any show, exhibition or performance by any company, association or persons, or a corporation, in the business of giving such exhibitions for compensation, even if a portion of the proceeds are for charitable or benevolent purposes or by or for the groups exempted above, shall pay the license tax imposed.

All organizations however, are required to register with the sheriff's office and to obtain the permit required by this Article.
(Min. Bk. 4, p. 392; Min. Bk. 6, p. 118; Comp. 1974, ch. 6; Ord. 11-18-15)

Chapter 8

FIRE PROTECTION AND PUBLIC SAFETY

Sec. 8-1. Fire companies.
Sec. 8-2. Regulations governing use of county fire trucks.
Sec. 8-3. Official safety program.
Sec. 8-4. Certification of firefighters aged 16 years and older.
Sec. 8-5. Disposal of unclaimed personal property in the possession of the Sheriff.
Sec. 8-6. Emergency Medical Services Cost Recovery.
Sec. 8-6-1. Purpose and Finding of Fact.
Sec. 8-6-2. Definitions.
Sec. 8-6-3. Permits required.
Sec. 8-6-4. Fees for emergency medical services vehicle transports.

Chapter 8
FIRE PROTECTION AND PUBLIC SAFETY.[1]

Sec. 8-1. Fire companies.

All fire companies organized and operating within the county shall be subject to the approval of the board of supervisors in accordance with Title 27, chapter 2, article 1 of the Code of Virginia. Any approval heretofore granted for a fire company shall remain in effect; provided, however, that no such approval shall be deemed to relieve any such company of the continuing duty of compliance with the provisions of Title 27, chapter 2, article 1 (section 27-6.01 et seq.) of the Code of Virginia.
(Ord. 11-18-15)

Sec. 8-2. Regulations governing use of county fire trucks.

Fire trucks owned by the county shall be used for emergency use only with the following exceptions:

(1) Parades within the county and the town of Scottsville;

(2) Fire training purposes;

(3) Driver training;

(4) Cleaning landfill equipment;

(5) Wet down of public areas and ballfields for county sanctioned functions;

(6) Other uses deemed necessary by the county administrator or county fire chief.

Private use of such fire trucks is prohibited. Examples of such excluded uses are:

(1) Filling of private swimming pools;

(2) Filling baptismal pools;

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[1] For state law as to forest wardens and fires generally, see Code of Va., § 10.1-1135 et seq.; as to smoke detectors in certain buildings, see Code of Va., § 15.2-922; as to Line of Duty Act, see Code of Va., § 9.1-400 et seq.; as to arson and related crimes, see Code of Va., § 18.2-77 et seq.; as to fire protection generally, see Code of Va., § 27-1 et seq.

(3) Pumping out private basements.
(Comp. 1974, ch. 8; Ord. 5-15-85)

Sec. 8-3. Official safety program.[2]

Pursuant to the authority contained in sections 27-6.1 and 27-8.1 of the Code of Virginia the following official safety program of the county is hereby established.

The official safety program of this county shall be carried into effect by the following organizations or departments whose membership shall be deemed to be an integral part of the safety program of this county:

(A) The sheriff's department, together with all its law enforcement personnel;

(B) The Fluvanna County Volunteer Fire Department, Inc., at present consisting of Fork Union Volunteer Fire Company, Kents Store Volunteer Fire Company, Palmyra Volunteer Fire Company; and the Lake Monticello Fire Department;

(C) The Fluvanna Rescue Squad, Inc., at present consisting of Kents Store Rescue Squad, Fork Union Rescue Squad and Palmyra Rescue Squad; and the Lake Monticello Rescue Squad;

(D) All other law enforcement personnel of the county not included in (A) above.
(Min. Bk. 7, p. 169; Comp. 1974, ch. 8; Ord. 2-3-75; Ord. 5-2-83; Ord. 11-18-15)

Sec. 8-4. Certification of firefighters aged 16 years and older.[3]

(A) Any person residing anywhere in the Commonwealth, aged 16 years or older, who is a member of a volunteer fire company within the County with parental or guardian approval, is hereby authorized (i) to seek certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs; and (ii) to work with or participate fully in all activities of such volunteer fire company, provided such person has attained certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs. No person who achieved certification under National Fire Protection Association

[2] For state law as to the Line of Duty Act, see Code of Va., § 9.1-400 et seq.

[3] For state law as to participation of children in activities of a volunteer fire company, see Code of Va., §§ 40.1-79.1 and 40.1-100.

1001, level one, firefighter standards, as administered by the Department of Fire Programs, on or before January 1, 2006, between the ages of 15 and 16, shall be required to repeat the certification after his sixteenth birthday.

(B) Any trainer or instructor of such persons mentioned in subsection (A) of this section and any member of a paid or volunteer fire company who supervises any such persons shall be exempt from the provisions of section 40.1-103 of the Virginia Code, provided that the provisions of section 40.1-100 of the Virginia Code have not been violated, when engaged in activities of a volunteer fire company, and provided that the volunteer fire company or the governing body of the County has purchased insurance which provides coverage for injuries to or the death of such persons in their performance of activities under this section.

(C) Children aged 16 years or older may participate in all activities of a volunteer fire company; provided, however, that no person under the age of 18 years shall enter a burning structure or a structure which contains burning materials prior to obtaining certification under National Fire Protection Association 1001, level one, fire fighter standards, pursuant to the provisions of subsection (A) of this section, except where entry into a structure that contains burning materials is during training necessary to attain certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs.
(Ord. 4-16-08)

Sec. 8-5. Disposal of unclaimed personal property in the possession of the Sheriff.[4]

Any unclaimed personal property which has been in the possession of the Sheriff and unclaimed for a period of more than sixty (60) days may be (i) sold at public sale in accordance with the provisions of this section or (ii) retained for use by the Sheriff. As used herein, "unclaimed personal property" shall be 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. of the Virginia Code). Unclaimed bicycles and mopeds may also be disposed of in accordance with section 15.2-1720 of the Virginia Code, and unclaimed firearms shall only be disposed of in accordance with section 15.2-1721 of the Virginia Code after having been in the possession of the Sheriff and unclaimed for a period of more than 120 days.

Prior to the sale or retention for use by the Sheriff of any unclaimed item, the Sheriff or his duly authorized agents shall make reasonable attempts to notify the rightful owner of

[4] For state law as to local disposition of unclaimed property, see Code of Va., § 15.2-1719.

the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and 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 display and sale of unclaimed personal property. Such property, including property selected for retention by the Sheriff, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The Sheriff or his duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the Sheriff shall become the property of the County and shall be retained only if, in the opinion of the Sheriff, there is a legitimate use for the property by the Sheriff and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the County and the retained property may be placed into use by the Sheriff. Any such owner shall be entitled to apply to the County within three (3) years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the County shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three (3) years from the date of the sale.
(Ord. 11-18-09; Ord. 11-18-15)

Sec. 8-6. Emergency Medical Services Cost Recovery. (Ord. 3-18-15)

Sec. 8-6-1. Purpose and Finding of Fact.[5]

Pursuant to section 32.1-111.14 of the Virginia Code, it is hereby determined that the powers set forth herein must be exercised in order to assure the provision of adequate and continuing emergency services and to preserve, protect and promote the public health, safety and general welfare. (Ord. 3-18-15)

Sec. 8-6-2. Definitions.[6]

[5] For state law reference, see Code of Va., § 32.1-111.14.

[6] For state law reference, see Code of Va., § 32.1-111.1.

Agency means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

Ambulance means any vehicle, vessel or aircraft, which holds a valid permit issued by the Office of Emergency Medical Services, that is specially constructed, equipped, maintained and operated, and is intended to be used for emergency medical care and the transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless. The word "ambulance" may not appear on any vehicle, vessel or aircraft that does not hold a valid permit.

Emergency medical services vehicle means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services vehicle permit issued by the Office of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.
(Ord. 3-18-15)

Sec. 8-6-3. Permits required.[7]

No agency shall charge fees for transport services provided by a private emergency medical services vehicle within the county in response to a call for service originating from the county without first obtaining a permit pursuant to this section. Permits shall be issued in accordance with section 32.1-111.14 of the Virginia Code, as amended, by the county administrator or his designee, upon such terms and conditions as may be needed to ensure the public health, safety and welfare. No permit shall be required for any person acting pursuant to a mutual aid agreement with the county or while assisting the county during a state of emergency. Agencies permitted pursuant to this article shall comply with all terms and conditions of their permits. (Ord. 3-18-15)

Sec. 8-6-4. Fees for emergency medical services vehicle transports.[8]

(A) Reasonable fees shall be charged for transport services provided by emergency medical services vehicles operated by fire departments, rescue agencies, or by any private agency permitted under this article, including charging insurers for ambulance services as authorized by section 38.2-3407.9 of the Virginia Code. The schedule of fees shall be

[7] For state law reference, see Code of Va., § 32.1-111.14.

[8] For state law reference, see Code of Va., § 32.1-111.14.

established by resolution of the board. In no event shall a person be denied transport for emergency medical services due to his or her ability to pay.

(B) Funds collected from service fees established by this article shall be used for purposes of defraying costs and improving services associated with providing emergency medical transport services, including but not limited to capital, facility vehicle, equipment and supply costs, and professional services.

(C) The county administrator shall establish policies and procedures to implement this section in accordance with applicable law, including, but not limited to, payment standards for persons demonstrating economic hardships.
(Ord. 3-18-15)

Chapter 9
FORK UNION SANITARY DISTRICT

Article 1. In General.

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Sec. 9-2-11. Right of entry of committee, etc.
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Sec. 9-2-13. Molesting, injuring, etc., fire hydrants, etc.

Chapter 9
FORK UNION SANITARY DISTRICT

Article 1. In General.[1]

Sec. 9-1-1. Definitions.

For the purposes of this Chapter, unless the context specifically indicates otherwise, the following words and terms shall have the meanings respectively ascribed to them in this section:

Administrator shall mean the duly appointed agent of the board of supervisors, who shall be the administrative officer of the advisory committee.

Committee shall mean the advisory board of the Fork Union sanitary district.

District shall mean the Fork Union sanitary district.

Dwelling unit shall mean a separately maintained quarters with facilities for sleeping or cooking.

Facilities of the district shall mean any and all component and pertinent parts of the entire systems of the water pipe lines and their appurtenances, sewage pumping stations and treatment plants, including these items all others now constructed, installed, operated or maintained by the district, or any which may be approved and accepted in the future as additions or extensions of the systems.

Franchise territory shall mean the territory included within the boundaries of the Fork Union sanitary district.

Industrial wastes shall mean the liquid wastes from industrial processes as distinct from sanitary sewage.

Owner or developer shall mean any person having an interest, whether legal or equitable, sole or partial, in any premise which is, or may in the future be served by the facilities of the district which is, or may in the future be responsible for design and construction of facilities to be under the jurisdiction of the committee and to become a part of the public utilities system of the district.

[1] For state law as to sanitary districts generally, see Code of Va., § 21-112.22 et seq.

Premises shall mean 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 district.

Sanitary sewage shall mean that water-carried waste which derives principally from dwellings, business buildings, institutions, industrial establishments and the like, exclusive of any storm and surface waters.

Sewage treatment plant shall mean any arrangement of devices and structures used for treatment of sewage.

Sewage works shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer; public sewer. Sewer shall mean a pipe or conduit for carrying sewage. Public sewer shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by the sanitary district.
(Min. Bk. 6, pp 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-2. Connection policy.[2]

The owners of all houses, building or properties used for human occupancy, employment, recreation or other purposes, constructed subsequent to August 17, 1977 and situated within the district at a distance not greater than four hundred (400) feet from any street, alley or right-of-way in which there is located any sanitary toilet or other disposal liquid waste facilities shall connect such facilities directly with the public sewer, and shall connect sources of water use to the public water main, when the district provides the necessary water lines to the property line. Any existing buildings or properties described above, presently being served by a well, shall hereafter be prohibited from connecting to a different well for needed water.

Any person failing to comply with the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine not to exceed fifty dollars ($50) for each offense. Each day of such failure shall constitute a separate offense.
(Min. Bk. 6, pp 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10; Ord. 11-18-15)

Sec. 9-1-3. Subdivisions and industrial developments generally.

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[2] As to county powers and duties regarding sanitary districts, see Code of Va., §§ 21-118, 21-118.4.

(A) The developer of any new subdivision intended for residential or commercial use or any combination thereof, or the developer of any industrial site shall construct all sanitary sewers and domestic fresh water distribution lines within his subdivision or development at his own expense. Immediately upon completion and acceptance of the construction work, the sanitary sewer and water facilities with necessary easements shall become the property of the district.

(B) Where a public water main or sanitary sewer does not directly serve a new subdivision or development but such subdivision or development is adjacent to such main or sewer, the developer shall construct necessary water mains and construct and connect his sanitary sewers to one or more suitable private sanitary sewage pumping stations which shall discharge into a public sanitary sewer. Sufficient easements shall be provided. Immediately upon completion and acceptance of such construction works, the sewer works system shall become the property of the district.

(C) Where construction of an offsite trunk or lateral sewer or water line is deemed to be either necessary, feasible or advisable to connect the applicable systems of the subdivision or development to the suitable facilities of the district, the financial responsibility, location and detail of such construction shall be determined and agreements so established shall be in writing and acknowledged by both the developer and the committee. Each such proposed item of offsite construction shall be a separate matter for discussion and agreement.

(D) The committee shall, in conjunction with the engineers, review and approve, or revise if necessary to conform with standards acceptable to the committee, as hereinafter specified, prepared plans for all projects for developing, extending or constructing water mains and sanitary sewers and accessories proposed thereto within the district, or those lying outside the district, prior to any construction of such projects.

(E) Materials, workmanship and procedures used in work shall be in accordance with the standards and specifications established or approved by the board or committee.

(F) During progress of the work, the committee or the duly authorized engineers, inspectors or others who are directly concerned with the work shall have access to the locations of construction for the purpose of establishing to their satisfaction that the projects are being constructed to district requirements and in accordance with approved plans and specifications.

(G) After completion of the facilities, and on written request of the developer or owner responsible for the construction, the committee shall make a final comprehensive inspection of the completed projects and shall be satisfied as to conformance to plans and

specifications before accepting the facilities to become a part of the public utilities system of the district.

(H) Any developer or owner who proposes to submit application to the committee for review and approval of plans and specifications for construction of facilities classified hereinafter in Sections 9-1-4.2, 9-1-4.3 or 9-1-4.4 of this Chapter, shall be required to procure from the committee, and shall acknowledge in writing, the receipt of same prior to submitting his application, one set of this publication of sanitary district rules and regulations, together with one set of drawings showing detailed construction standards approved by the board for use in the district. The committee shall be obligated to furnish this one set of publication and drawings at no cost, on a bona-fide request.

(I) Additional sets of the publication and drawings may be supplied by the committee to any recipient of the one free set, at a cost of five dollars ($5) per set.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-4. Application for services - - Powers and duties of committee generally.

The committee shall accept, review and render decision on applications for water and sanitary sewer service to the premises described in the application from any person who is the owner of or legally represents the owners of land or who are tenants of land within the district.

The committee reserves the right to approve, revise, request additional data, design or information on, or to disapprove, any such application or plans pertinent thereto, which in the opinion of the committee is to the best interest of the district.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-4.1. Same - - Form; accompanying documents, etc., generally.

Applications for water or sewer service for existing or proposed new individual or multiple dwelling or commercial establishment to which the district service facility is immediately adjacent and available, shall be made in duplicate on a form prescribed and furnished by the committee for the purpose of such application and each form shall be accompanied by measurements, maps, drawings and such other data that will clearly establish and indicate the physical location within or with respect to the district of the premises for which the application is submitted and the location on the premises of the services applied for.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-4.2. Same - - Special requirements for certain buildings.

(A) Where service is desired for either water or sewer facilities, or both, for any individual building or group of buildings, whether intended for use as residential or commercial purposes and which are not classified as being the development of a new subdivision, or section thereof, and which will require the design and construction by the owner of new trunk, lateral or principal lines and any necessary appurtenances thereto in order to reach the district and which such new construction in its entirety shall ultimately be accepted as an integral part of the facilities of the district, the application therefor shall be made in writing to the committee.

(B) Such application, stipulated in subsection (A) of this section, shall be accompanied by four (4) sets of detailed plans showing accurate plans and profile design drawings of the lines and location, design and identification of all appurtenances and accessories pertinent thereto. It is preferable that such plans show on the same sheet, the plan and profile design of the contiguous sections of street or easement and the proposed utility as is indicated by the application.

(C) The design and detailed plans stipulated in subsection (B) of this section, and all subsequent revisions thereof, shall be prepared and properly signed by a civil engineer registered in this state.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-4.3. Same - - Special requirements for subdivisions and commercial areas.

(A) Where construction of water and sanitary sewer facilities is proposed by a developer or owner of any new residential subdivision or commercial area or any combinations thereof, and which facilities shall ultimately be accepted into the jurisdiction of the committee as a part of the public utilities system of the district, application for review of the design and plans for all such proposed construction shall be made in writing to the committee.

(B) Such application stipulated in subsection (A) of this section shall be accompanied by: (1) Four (4) prints of the record plat of the subdivision or applicable section thereof which shall bear the approval of the board; (2) four (4) sets of detailed plans showing accurate plan and profile design drawings, the proposed lines and the location, design and indication of all their appurtenances and accessories. It is preferable that such plans show on the same sheet, the plan and profile design of the contiguous sections of new street or easement and proposed water and sewer facilities. The design and detailed plans stipulated immediately above, and all subsequent revisions thereof, shall be prepared and properly signed by a civil engineer registered in this state; and (3) if any facilities other than pipe lines

and their appurtenances are proposed by the applicant or required by the committee for the complete and satisfactory operation of the proposed utilities, such as water storage or pumping equipment, sewage treatment plants, sewage pumping stations, or other like equipment, the application shall be accompanied by four (4) sets of detailed plans and specifications on design, equipment, materials and construction of such facilities.

The plans and specifications stipulated immediately above and all subsequent revisions shall be prepared and properly signed by a civil engineer registered in this state. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-4.4. Same - - Special requirements for industrial establishments.

(A) Application for proposed water and sewer facilities to serve any type of industrial establishment within the district shall be made in writing to the committee.

Complete information regarding plant location, type of industry, raw and finished products, approximate volume of utility requirements, types of industrial wastes to be discharged, proposed facilities for pretreatment of industrial wastes and other data pertinent to the industry, shall be accompanied by the application.

(B) The applicant for water and sanitary sewer services to serve industrial establishments shall conform to the requirements for application for the same as are provided in section 9-1-4.1 or subsection (B) of section 9-1-4.2 of this Chapter, as may be governed by the location of proposed industrial site.

(C) Any design, plans and specifications, required as stipulated in subsection (B) of this section, and all subsequent revisions thereof, shall be prepared and properly signed by a civil engineer registered in this state.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-4.5. Same - - Procedure upon receipt of application by committee; revised plans and specifications generally.

(A) On receiving an application as prescribed by section 9-1-4.1 of this Chapter, the committee will approve with or without revision, or disapprove the application and return one of the submitted forms to the applicant so marked to indicate the action taken by the committee.

Construction of any such approved service facilities shall conform strictly with the returned application form and notations indicated thereon by the committee.

(B) On receiving an application as prescribed by sections 9-1-4 to 9-1-4.4 of this Chapter, the committee will review all data, design, plans and specifications and indicate thereon any revisions, additions, changes or deletions as is considered necessary in order that the proposed construction shall conform to the standards and best interests of the district. One (1) marked set of the submitted plans and specifications shall be returned to the applicant.

After receiving the returned set of plans and specifications, the applicant shall prepare revised plans and specifications to conform with such revisions indicated by the committee and submit four (4) sets of the revised plans and specifications to the committee.

On receipt of the revised plans and specifications, the committee shall check them for conformity with the initially marked revisions. If satisfactory, one (1) of the revised sets of plans and specifications shall be returned to the applicant with written approval for construction.

Construction of any public utility facility under the jurisdiction of the district, and all its appurtenances and accessories, shall be in strict conformance with the final approval set of plans and specifications stipulated in the paragraph immediately above.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-5. Deviation from approved plans.

In the event that an applicant for service under this chapter desires to deviate from the plans or specifications which have been approved by the committee for construction, or to make any changes or revisions therein, the applicant shall make such request to the committee in writing and state the reasons for his request.

Revised plans, specifications and other substantiating data, shall accompany the request in such manner, form and quantity as was required for the original application.

The procedure for all parties concerned for processing any such request for deviation from, or changes and revisions in, initially approved plans and specifications for construction shall be the same as stipulated for the original application for the project.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-6. As-built plans and specifications.

After completion of construction of the public utility facilities from approved plans on any project classified in sections 9-1-4.2, 9-1-4.3 or 9-1-4.4 of this Chapter, the developer or

owner responsible for the construction shall prepare as-built plans, based on accurate, field-obtained information, to show actual conditions of the finished construction. The as-built plans shall be revisions in and permanently indicated changes on the original tracings or master sheets from which were made the plans and specifications approved by the committee for construction. The as-built plans shall show, but may not be limited to the following:

(A) *Water line construction*.

(1) Scale accuracy location in plan of the line and all installed fittings, such as elbows, tees, crosses and reducers, and all cradle encasement, or special construction.

(2) Exact measurement to show positive location of all house services, valve boxes, blind or blank-flanged fittings and plugged terminals of lines. The measurements taken for these positive locations shall be taken from at least two (2) reasonable adjacent and available, fixed and permanent objects such as fire hydrants, centers of sanitary or storm sewer manhole casting covers, corners or lines extended of buildings, power poles, etc.

In lieu of recording the positive locations indicated above, on the plans the committee will accept such locations shown by neat, legible and separate no-scale sketches or diagrams which are recorded in a progressive sequence and clearly identified in a hard cover, permanently bound field type note book.

(B) *Sewer line construction*.

(1) Scale accuracy location of manhole invert and top casting elevations and numerical notation of the exact elevations of same as determined by field survey after construction. Elevations shall be in datum of the district.

(2) Scale accuracy indication of lengths and grades of lines between manholes and numerical notation of the exact lengths and grades, as determined after construction.

(3) Scale accuracy location of concrete cradle, encasement or special construction.

(4) Location of house services by measurement from the manhole immediately downgrade.

(C) *Sanitary sewage treatment plants and pumping stations, water pumping stations, all other comparable construction and building structures.*

(1) As-built plans and specifications shall accurately indicate all approved deviation from or changes in location or type of equipment installed and material used.

(2) Accurate listings of the name of the manufacturer of all operating equipment installed, together with model or style numbers, ratings, capacities and other pertinent information shall be provided as part of the as-built plans on the project.

(3) At least three (3) complete sets of operation and maintenance manuals of all operating equipment, and all certificates of inspections, approvals, warranties and guarantees of equipment, materials and installations thereof, required by the project specifications which were approved by the committee shall be provided as a part of the as-built plans on the project.

(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-7. Final inspections.

At the completion of construction of any project of public utility facilities on any project classified in sections 9-1-4.2, 9-1-4.3 or 9-1-4.4 of this Chapter, the developer or owner responsible for the construction shall notify the committee, in writing, that the work has been completed. Together with the notification of completion, there shall be submitted to the committee all as-built plans, specifications and such other data and addenda relative thereto which is required in section 9-1-6. On receipt of the notification and as-built requirements, the committee shall make a final comprehensive inspection of the constructed facilities, examining in detail for conformance of the work with approved plans and specifications, alignment of sewer lines, infiltration factors to the satisfaction of the committee and best interests of the district.

A responsible representative of the developer or owner shall accompany the committee on the final inspection. The developer or owner shall furnish whatever labor is necessary for conducting the final inspection.

Deficiencies which are found to exist during the inspection shall be pointed out to the developer or owner's representative. Subsequent to the inspection, the developer or owner shall be furnished, in writing, a summary of the deficiencies found and corrections of which are required.

On notification that all construction deficiencies have been completed, the committee will inspect all such work.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-8. Acceptance of new construction.

(A) The committee shall accept newly constructed water and sanitary sewer service facilities, classified hereinbefore in sections 9-1-4.2, 9-1-4.3 and 9-1-4.4 of this Chapter, on satisfaction of the following conditions:

(1) That all requirements of section 9-1-7 have been fulfilled in the opinion of the committee;

(2) That all matters relative to specific contracts between the developer or owner and the committee are in order;

(3) That payment has been made by the developer or owner for all fees relative to applications and inspections;

(4) That a civil engineer registered in this state certifies that the work has been completed in accordance with the approved plans and specifications; and

(5) That explicit understanding exists between the developer or owner and the committee that the developer or owner shall be responsible for and obligated to correct any deficiencies in construction for a period of one (1) year from the date of acceptance of the facilities by the district. This condition shall be stipulated in the written form of acceptance issued by the committee.

(B) Acceptance of the newly constructed facilities, when approved by the committee, shall be made in writing to the developer or owner responsible for the construction.

The issuance of the written form of acceptance of any such facilities shall constitute an irrevocable agreement between the developer or owner responsible for construction and the committee that the board of supervisors, acting for the district and any of its officers, agents, servants or employees shall be saved harmless by the developer or owner from liability and responsibility of any nature and kind for costs of, or payments on, labor, equipment or material used in construction of the accepted facilities or on account of any patented or factured for or used in construction of, or for the intended operation of the accepted facilities.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-9. Use of sanitary sewers - - Prohibited discharges generally.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters into any public sanitary sewer. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-9.1. Same - - Certain prohibited discharges described.

Except as hereinafter provided, or under conditions specifically approved and detailed, in writing, by the committee, no person shall discharge or cause to be discharged into any public sanitary sewer any of the following described water or wastes:

(A) Any water or waste which may contain more than one hundred parts per million, by weight, of fat, oil or grease.

(B) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(C) Any garbage resulting from preparation, cooking and dispensing of food which has not been properly shredded.

(D) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

(E) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.

(F) Any waters or wastes having a pH value lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(G) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(H) Any noxious or malodorous gas or substance capable of creating a public

nuisance.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-9.2. Same - - Grease, etc., interceptors may be required.

Grease, oil and sand interceptors shall be provided by the owner when, in the opinion of the committee, they are necessary for the proper handling of liquid wastes containing such ingredients or any other of a flammable or harmful nature; except, that such interceptors shall not be required for private living quarters or dwelling units.

All interceptors shall be of a type and capacity approved by the committee. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas and watertight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-1-9.3. Same - - Industrial, etc., waste; preliminary treatment facilities.

The admission or proposed admission into the public sewers of any waters or wastes resulting from any industrial or manufacturing process, products or comparable activity shall be subject to the review and approval of the committee.

When necessary, in the opinion of the committee, the owner of any such industrial or manufacturing establishment shall provide, at his expense, such preliminary treatment of his industrial waters or wastes as may be required to reduce objectionable characteristics or constituents or to satisfy any other condition which the committee may decide is advisable in order to allow the admission of such waters or wastes into the sanitary sewers.

Plans and specifications and any other pertinent information relating to required or proposed preliminary treatment facilities shall be submitted for the review and approval of the committee. No construction of any such facilities shall be started until such approval has been obtained in writing.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Article 2. Water Division.

Sec. 9-2-1. Bills rendered monthly.

Water consumption bills shall be rendered each water connection every month. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-2. Schedule of consumption charges.[3]

The monthly charges for water consumption shall be in accordance with the following schedule:

$21.00 for first 2,000 gallons (minimum charge);
$11.00 for each 1,000 gallons up to 300,000 gallons;
$11.00 for each 1,000 gallons above 300,000 gallons.

In addition to the foregoing, during the existence of any water emergency which has been declared by the governing body in accordance with Sec. 9-2-12 of this Code, each and every charge for water consumption shall be subject to a surcharge of 10%. Such surcharge shall be calculated by multiplying the rates stated above by 110%. Such surcharge shall apply at the beginning of the regular billing period next succeeding the adoption of this section or the declaration of such emergency condition, whichever shall last occur. Such surcharge shall cease to apply at the end of the regular billing period which is nearest to, but not later than, sixty (60) days after the governing body shall have declared such water emergency to be at an end.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10; Ord. 11-3-80; Ord. 7-15-86; Ord. 5-21-97; Ord. 7-15-98; Ord. 11-28-01; Ord. 11-20-02; Ord. 06-21-06; Ord. 5-5-10; Ord. 7-2-14)

Sec. 9-2-3. Turn on charge.

The charge for reconnection of water service at customer's request shall be five dollars ($5). All outstanding bills shall be paid in full before water service is reinstated. There shall be no charge for turn on where required in normal service operations or for repairs or alterations to plumbing systems on private property. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

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[3] Amendment adopted 11-20-02 is effective on and after December 1, 2002. Amendment adopted 06-21-06 is effective on and after July 1, 2006. Amendment adopted 7-2-14 is effective on and after August 1, 2014.

Sec. 9-2-4. Availability and connection charges - - Generally.[4]

(A) There shall be a water availability charge, payable at the time application is made for connection to the water distribution system, which charge shall be equal to $2000/ERU for the service applied for.

(B) In addition to the foregoing, there shall be a charge, payable at the time connection is made to the water distribution system, for connection to the water distribution system, which charge shall be equal to $2500/ERU for the service applied for.

(C) For purposes of this section, "ERU" shall mean "equivalent residential unit" and, except as otherwise provided by law, shall be equal to 4500 gallons per month usage of water.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10; Ord. 1-1-86; Ord. 11-28-01; Ord. 5-5-10)

Sec. 9-2-4.1. Same - - To what charge applies.

The availability charge provided for by section 9-2-4 of this Chapter applies to work done up to the meter and material and labor in setting the meter, whether at the property line or on the premises. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-5. Meter deposit.

There shall be a deposit of twenty dollars ($20) made at the time application for water service is made, refundable at the time of termination of service; provided, that the applicant's bills are paid in full. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10; Ord. 1-1-86)

Sec. 9-2-6. Grace period, late charge and interest; when service disconnected.[5]

The grace period for payment of all bills shall be thirty (30) calendar days. A late charge of ten percent (10%) of the amount due or ten dollars ($10), whichever is greater, shall be imposed on all outstanding bills more than thirty (30) calendar days old. In addition, all

[4] Amendment adopted 11-28-01 is effective on and after January 1, 2002.

[5] As to county authority to collect unpaid fees and charges and to disconnect water and sewer services, see Code of Va., § 21-118.4.

outstanding bills more than thirty (30) calendar days old shall accrue interest at the rate of ten percent (10%) per year. Water service shall be disconnected if bills are due over sixty (60) days for residential users and thirty (30) days for commercial users. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10; Ord. 2-4-98; Ord. 11-18-15)

Sec. 9-2-7. Owner liable for delinquent charges.

In all cases where there are delinquent charges due the district, the owner of record of the property shall be held responsible or liable for payment of these outstanding accounts. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-8. Owner responsible for service line; penalty for failure to repair leaks, etc.

The property owner remains responsible for all the service line from the meter to the premises. Any leak or break occurring at any point on the service line from the meter to the premises shall be repaired immediately by a plumber at the owner's expense.

The FUSD manager may approve a plan for payment of charges arising from such a leak in any case in which he determines that (a) such leak was not caused by the negligent or wilful act of the customer; (b) such leak was discovered as quickly as might reasonably be under the circumstances; and (c) such leak was effectively repaired promptly after its discovery and prior to the approval of such plan. Such plan shall provide for the determination of the amount of water which shall have been lost as a result of such leak, payment for which shall be at the lowest marginal rate set out in Section 9-2-2 of this Code. Every such plan shall provide, at a minimum, for payment of all future service charges in timely fashion, and for the entire outstanding balance, together with interest at the rate of ten percent (10%), to be paid within a reasonable time, not to exceed twelve (12) months.

Willful failure to repair such leak or break may result in a penalty rate per day from the date the leak or break was first detected as follows:

$ 25.00 for 5/8" meter or 3/4" meter
50.00 for 1" meter
100.00 for 1-1/4" meter - 2" meter
250.00 for 2-1/4" meter - 3" meter
300.00 for all over 3" meter

(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10; Ord. 4-21-99)

Sec. 9-2-9. Prorating bills.

Customers requesting discontinuance or establishing new accounts for water service shall be billed on the number of months or part thereof in the billing period when service was provided. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-10. Installation, care, etc. of meters.

(A) Water meters for new customer services shall be installed on the premises where practicable in a location which will assure against freezing or damage. They shall be installed as near as possible to the point of entry of the water service pipe. Customers shall be responsible for cost of repairs from the meter to the premises.

(B) Water meters installed on the premises shall be used with an outside reading device installed in a location agreeable to the district and the property owner.

(C) Water meters installed on the premises shall not be covered or so obstructed as to prevent ready access for maintenance or repairs.

(D) After proper installation of water meters, all meters shall be sealed by the district, which seals shall not be broken except by authority of the district.

(E) No water meter shall be moved or relocated except by district employees.

(F) Meters which cannot be installed on the premises will be installed at or near the property line.

(G) The district shall not be held responsible for water damage caused by burst water meters or connections.

(H) In case of meter damage causing leakage, the customer may shut off the water at the valve at the end of the service line.
(Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-11. Right of entry of committee, etc.

The committee, the administrator or his duly authorized agent shall have the authority to enter at reasonable times any lot or house wherein district water is used to determine if there is any waste of water, and to inspect the plumbing. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-12. Authority of committee to regulate use of water during emergency.

Whenever the public water supply diminishes to the extent that in the judgment of the committee, the public health, safety and welfare are in danger, it may declare the existence of a water emergency. Whenever such emergency is declared, the public shall be notified by the publication of an emergency proclamation once a day for two (2) successive days in a newspaper of general circulation throughout the area served, or by the distribution of printed circulars in the area served. Such proclamation shall contain all the rules and regulations governing the use of water throughout the length of such period, and anyone violating any of the provisions thereof shall be guilty of a misdemeanor. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Sec. 9-2-13. Molesting, injuring, etc., fire hydrants, etc.

It shall be unlawful for any person to deface or injure any stopcock valve, fire plug or public hydrant, or anything connected with the district waterworks or throw or deposit any building material, rubbish or other matter on the stop box of a service pipe, valve box, or fire plug or meter, or cover up either with dirt or other material, or to remove or injure any cap or screw of a stop box, valve, fire plug, meter or hydrant or open any of them, or in any way molest them without authority from the committee; except, that in case of fire or when cleaning the fire hose, firemen are authorized to use the fire plugs and in cleaning or sprinkling streets, or for other district purposes, the fire plugs, valves, etc., may be used by employees of the district under the direction of the committee or administrator. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (Min. Bk. 6, pp. 321, 445; Min. Bk. 7, p. 92; Comp. 1974, ch. 10)

Chapter 10
GARBAGE, REFUSE AND WASTE

Article 1. Trash, Garbage, Etc., on Private Property.

Sec. 10-1-1. Duty of owners to remove; certain accumulations unlawful.
Sec. 10-1-2. Removal of unlawful substances upon notice; mailing and posting notice.
Sec. 10-1-3. Removal by board upon failure of owner to comply with notice - - Generally.
Sec. 10-1-3.1. Same - - Cost of removal - - Liability of owner.
Sec. 10-1-3.2. Same - - Same - - Constitutes lien against property.
Sec. 10-1-4. Penalty for violation of article.

Article 2. Disposal, Storage, Etc., of Solid Waste and Tires.

Sec. 10-2-1. Compliance with Virginia Waste Management Act - - Solid waste disposal, etc.
Sec. 10-2-2. Same - - Stockpiling tires; maximum number of tires permitted.
Sec. 10-2-3. Compliance with zoning ordinance.
Sec. 10-2-4. "Stockpiling of tires" defined.
Sec. 10-2-5. Construction of article.

Chapter 10
GARBAGE, REFUSE AND WASTE[1]

Article 1. Trash, Garbage, Etc., on Private Property.[2]

Sec. 10-1-1. Duty of owners to remove; certain accumulations unlawful.

The owners of property within the county shall, from time to time, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the county. It shall be unlawful for the owner of any property in the county to allow any such accumulation of such material as the board of supervisors shall determine, from time to time, might endanger the health of other residents of the county.

Sec. 10-1-2. Removal of unlawful substances upon notice; mailing and posting notice.

Every owner of property in the county shall remove therefrom such trash, garbage, refuse, litter and other like substances which shall be determined by the board to be unlawful as provided in this article. The board shall notify such owner of such determination, in writing, specifying particularly the measures needed to eliminate such illegality and further specifying the time within which such measures are to be taken. Such notice shall be mailed, by first class mail, to the address of such owner as shown on the tax records of the county and shall, in addition, be posted in a conspicuous place on the property complained of.

Sec. 10-1-3. Removal by board upon failure of owner to comply with notice - - Generally.

The board of supervisors may cause to be removed any and all trash, garbage, refuse, litter and other like substances found to be unlawful as provided in this article, as to which the owner of such property, after notice as provided by Section 10-1-2 of this Code, and a reasonable time to comply therewith, shall have failed to do so.

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[1] For state law as to Virginia Waste Management Act, see Code of Va., § 10.1-1400 et seq. As to authority of county with regard to solid and hazardous waste management, see Code of Va., § 15.2-1800.

[2] For state law as to authority of county to provide for removal of trash, garbage, etc., from private property, see Code of Va., § 15.2-901.

Sec. 10-1-3.1. Same - - Cost of removal - - Liability of owner.

In the event that the board shall take action under Section 10-1-3 of this Chapter, the cost or expenses thereof shall be charged to and paid by the owner of such property and may be collected by the county as taxes and levies are collected.

Sec. 10-1-3.2. Same - - Same - - Constitutes lien against property.[3]

Every charge authorized by this article with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property. (Ord. 11-18-15)

Sec. 10-1-4. Penalty for violation of article.[4]

In addition to the foregoing provisions of this article, the owner of any property which shall be determined by the board to be unlawful as provided hereinabove who shall fail to correct the condition within such reasonable time as may be required by the board as provided by this article, shall be deemed to be in violation hereof and shall be liable to a fine of fifty dollars ($50) for the first violation, or violations arising from the same set of operative facts. The fine for subsequent violations not arising from the same set of operative facts within the twelve (12) months of the first violation shall not exceed two hundred dollars ($200). Each business day during which the same violation is found to have existed shall constitute a separate offense. Violations arising from the same operative facts shall not result in penalties exceeding $3,000 in a twelve (12) month period.

First Violation - $50
Subsequent Violations (or business days of noncompliance) - $200/per
$3,000 maximum per twelve (12) month period

Article 2. Disposal, Storage, Etc., of Solid Waste and Tires.

Sec. 10-2-1. Compliance with Virginia Waste Management Act - - Solid waste disposal, etc.

It shall be unlawful for any person to dispose of, treat or store solid waste in the

[3] As to manner in which liens may be enforced, see Code of Va., §§ 58.1-3965 et seq. and 58.1-3940 et seq.

[4] As to county authority to assess a fine for violations, see Code of Va., § 15.2-901.

county except in accordance with the provisions of the Virginia Waste Management Act (chapter 14, Title 10.1 of the Code of Virginia). Any person who shall dispose of, treat or store any solid waste, without a permit as required by such act, shall be deemed to be in violation of this article.

Sec. 10-2-2. Same - - Stockpiling tires; maximum number of tires permitted.[5]

No person shall stockpile tires in the county except in accordance with the provisions of the Virginia Waste Management Act. In addition to the foregoing, no person shall stockpile more than five hundred (500) tires at any time, regardless of purpose or origin. (Ord. 11-18-15)

Sec. 10-2-3. Compliance with zoning ordinance.

No person shall dispose of, treat or store solid waste, including, but not limited to, the stockpiling of tires, except in accordance with Chapter 22 of this Code.

Sec. 10-2-4. "Stockpiling of tires" defined.

For purposes of this article, the term "stockpiling of tires" shall include placing of tires as provided in the Virginia Waste Management Act.

Sec. 10-2-5. Construction of article.

Nothing contained in this article shall be construed to preempt or otherwise inhibit the application of any other provision of law.

[5] As to state law regarding stockpiling tires, see Code of Va., §§ 10.1-1418.2—1418.5.

Chapter 11
RESERVED

Chapter 12
ECONOMIC DEVELOPMENT AUTHORITY

Sec. 12-1. Created.
Sec. 12-2. Name.

Chapter 12
ECONOMIC DEVELOPMENT AUTHORITY[1]

Sec. 12-1. Created.

There is hereby created a political subdivision of the state with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act, constituting Chapter 49, Subtitle IV of Title 15.2 of the Code of Virginia. (Min. Bk. 6, p. 445; Comp. 1974, ch. 14; Ord. 10-15-08)

Sec. 12-2. Name.

The name of the political subdivision created by this chapter shall be the Economic Development Authority of Fluvanna County, Virginia. (Min. Bk. 6, p. 445; Comp. 1974, ch. 14; Ord. 10-15-08)

[1] Prior to 10-15-08, the political subdivision created by this chapter was known as the Industrial Development Authority.

Chapter 13
ITINERANT DEALERS AND SALESMEN

Article 1. Dealers in Precious Metals and Gems.

Sec. 13-1-1. *Itinerant dealer* defined.
Sec. 13-1-2. Permit - - Required.
Sec. 13-1-2.1. Same - - Issuance; contents; fee generally.
Sec. 13-1-2.2. Same - - Nontransferable; fee not to be prorated; posting of permit.
Sec. 13-1-2.3. Same - - False statement on application voids permit.
Sec. 13-1-2.4. Same - - Application for permit; requirement of a bond or letter of credit.
Sec. 13-1-3. Seller's identification to be ascertained.
Sec. 13-1-4. Hours of operation; inspection by authorized officials; melting, defacing, etc., precious metals; certain local businesses exempt from Article.
Sec. 13-1-5. Information required on bills of sale; disposition of copies thereof.
Sec. 13-1-5.1. Record of disposition.
Sec. 13-1-6. Purchases from minors and non-owners.
Sec. 13-1-7. Penalties; first and subsequent violations.

Article 2. Book, Magazine, Etc., Sales People.

Sec. 13-2-1. Registration and permit - - Required.
Sec. 13-2-1.1. Same - - Information to be furnished; issuance and duration of permit; to be exhibited on request.
Sec. 13-2-2. Exemptions from Article.

Chapter 13
ITINERANT DEALERS AND SALESMEN

Article 1. Dealers in Precious Metals and Gems.[1]

Sec. 13-1-1. *Itinerant dealer* defined.

Itinerant dealer within the meaning of this article is a person, firm, partnership, or corporation who shall engage in any temporary or transient business in the county for the purchase of gold, silver, platinum, or any precious or semi-precious metals, gems or semi-precious stones. (Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-2. Permit - - Required.

No itinerant dealer may purchase gold, silver, platinum, or any precious or semi-precious metals, gems or semi-precious stones without a permit as provided by this article. (Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-2.1. Same - - Issuance; contents; fee generally.[2]

Permits required by this article shall be issued by the sheriff or his designee to any person, who has not been convicted of a felony or crime of moral turpitude within the past seven (7) years, who meets all other requirements of this chapter, including payment of the two hundred dollar ($200) application fee, and who has not had a permit denied or revoked under any ordinance or law similar in substance to provisions of this Chapter. The permit shall designate the premises on which the permittee shall conduct his business and specify the dates upon which the business may be conducted. (Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-2.2. Same - - Nontransferable; fee not to be prorated; posting of permit.[3]

A permit issued under this article shall be a personal privilege and shall not be transferable. This permit shall be valid for one year from the date issued and may be renewed

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[1] For state law regulating dealers in precious metals and gems, see Code of Va., § 54.1-4100 et seq.

[2] For state law reference, see Code of Va., § 54.1-4108.

[3] For state law reference, see Code of Va., §§ 54.1-4108 and 54.1-4111.

in the same manner the permit was initially obtained with an annual permit fee of two hundred dollars ($200). There shall not be any abatement of the fee for such permit by reason of the fact that the permittee shall have exercised the privilege for any period of less than that for which it was granted. The permit shall be placed or posted so as to be visible to the public at the principal entrance of the place of business.

If the application for a permit is denied by the sheriff's department, upon request, the sheriff's department shall provide a written statement of the facts and reasons for the denial. (Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-2.3. Same - - False statement on application voids permit.

Any false statement made on the application form for a permit under this Article voids the permit *ab initio*. (Comp. 1974, ch. 15; Ord. 12-3-80)

Sec. 13-1-2.4. Same - - Application for permit; requirement of a bond or letter of credit.[4]

To obtain a permit, the dealer shall file with the sheriff's department an application form which includes:

(A) The dealer's full name and any aliases;

(B) The dealer's residence and phone numbers;

(C) The dealer's age and date of birth;

(D) The dealer's sex and fingerprints;

(E) The name, address and telephone number of the dealer's employer, if any; and

(F) The location of the dealer's place of business.

The dealer must have all weighing devices used in his business inspected and approved by local or state weights and measures officials and present written evidence of such approval with the application.

The dealer shall submit a two hundred dollar ($200) fee along with the completed application.

[4] For state law reference, see Code of Va., § 54.1-4108.

The sheriff may waive the permit fee for retail merchants not required to be licensed as pawnbrokers under Code of Virginia section 54.1-400 et seq., provided that the retail merchant has a permanent place of business and purchases of precious metals and gems do not exceed five percent (5%) of the retail merchant's annual business.

Upon receipt of such permit, every dealer shall enter into a recognizance to the county, in accordance with the requirements of the Code of Virginia section 54.1-4106, secured by a corporate surety authorized to do business in the Commonwealth, in the penal sum of $ 10,000.00, conditioned upon due observance of the terms of this Chapter. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the Commonwealth a letter of credit in favor of the County for $ 10,000.00.
(Ord. 11-18-15)

Sec. 13-1-3. Seller's identification to be ascertained.

The permittee shall ascertain the name, address and age of the sellers by requiring an identification issued by a governmental agency with a photograph of the seller thereon and at least one other corroborating means of identification. The permittee shall further obtain a statement of ownership from the seller as provided in this chapter. (Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-4. Hours of operation; inspection by authorized officials; melting, defacing, etc., precious metals; certain local businesses exempt from Article.[5]

No purchase of such items or articles of precious metals shall be made by any person except between the hours of 9 A.M. and 5 P.M. and such business shall be open at all times to inspection by any revenue or police officer of the federal, state or county governments. The dealer or his employee shall permit the officer to examine all records required by this Chapter and any article listed in a record, which is believed by the officer to be missing or stolen, and search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen.

If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the sheriff's department of all closing and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

[5] For state law reference, see Code of Va., §§ 54.1-4101, 54.1-4101.1, 54.1-4104, and 54.1-4108.

No articles consisting of such precious metals or gems shall be melted down, defaced or changed in composition until a minimum of fifteen (15) calendar days from the date on which a copy of the bill of sale is received by the sheriff's office. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the county in which the purchase was made.

If the dealer performs the service of removing precious metals or gems, he shall retain the metals or gems removed and the article from which the removal was made for a period of fifteen calendar days after receiving such article and precious metals or gems.

Banking institutions engaged in the buying and selling of gold and silver bullion and the sale and purchase of coins are excluded from the operation of this Chapter.

The sheriff's office may also waive, by written notice, implementation of this Chapter, with the exception of Section 13-1-6 of this Code, for numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.
(Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-5. Information required on bills of sale; disposition of copies thereof.[6]

Every person permitted under this Article shall maintain adequate records to reflect the following information. The required information to be furnished is:

(1) The name, address, sex and phone number of the permittee and his employer;

(2) A complete description of the articles or precious metal purchased by the permittee to include all names, initials, serial numbers, or other identifying marks or monograms on each item purchased;

(3) The make, model number and license number of the motor vehicles owned or used by the permittee and his employer;

(4) The true weight or carat of such items made of precious metals or gems, the unit, as well as the total price paid, and the basis of such price paid the seller;

(5) The date, time, and place of receiving the items purchased;

[6] For state law reference, see Code of Va., § 54.1-4101.

(6) The full name, residence address, workplace, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the person selling the precious metals or gems;

(7) Verification of the identification of the seller by the exhibition of a government-issued identification card bearing a photograph of the person selling the precious metals or gems, 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) A statement of ownership from the seller; and

(9) A digital image of the form of identification used by the person involved in the transaction.

Each dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems, as described above. This record shall be retained for at least twenty-four (24) months.

The dealer shall have three (3) copies of the bill of sale: one copy of which is to be retained by the dealer, one copy to be mailed or delivered daily to the sheriff's department before 6 p.m. on the date of purchase, and one copy to be delivered to the seller of such precious metals or gems and articles made thereof.
(Comp. 1974, ch. 15; Ord. 12-3-80; Ord. 11-18-15)

Sec. 13-1-5.1. Record of disposition.

Each dealer shall maintain for at least twenty-four (24) months an accurate and legible record of the name and address of the person, firm, or corporation to which he sells any precious metal or gem in its original form after the waiting period required by Section 13-1-4 of this Code. This record shall also show the name and address of the seller from whom the dealer purchased the item.
(Ord. 11-18-15)

Sec. 13-1-6. Purchases from minors and non-owners.

No purchase of any article made of precious metals shall be made in this county from any person under the age of eighteen (18) years and no purchase shall be made from anyone other than the owner of such article made of precious metals, unless the seller has written

authority from the owner permitting and directing such sale, duly authenticated. (Comp. 1974, ch. 15; Ord. 12-3-80)

Sec. 13-1-7. Penalties; first and subsequent violations.

(A) Any person convicted of violating any of the provisions of this Chapter shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense, he shall be guilty of a Class 1 misdemeanor.

(B) Upon the first conviction of a dealer for violation of any provision of this Chapter, the sheriff's department may revoke the dealer's permit for one (1) full year from the date the conviction becomes final. Such revocation shall be mandatory for two (2) full years from the date the conviction becomes final upon a second conviction.

(Ord. 11-18-15)

Article 2. Book, Magazine, Etc., Sales People.[7]

Sec. 13-2-1. Registration and permit - - Required.

It shall be unlawful for any person to sell books, magazines, periodicals, tracts and similar publications, or solicit subscriptions to the same, within the county, without first registering with the sheriff's office of this county, furnishing the information required by this article and obtaining the permit hereby required. (Min. Bk. 5, p. 453; Comp. 1974, ch. 15)

Sec. 13-2-1.1. Same - - Information to be furnished; issuance and duration of permit; to be exhibited on request.

Every person referred to in Section 13-2-1 of this Article shall furnish to the sheriff's office his name, temporary address, permanent address, the name of the firm or company, if any, which he represents, the address of such firm or company and the credentials furnished such person by such firm or company. Upon receiving such information the sheriff's office shall provide such person with a written permit showing that such person has duly registered, which permit shall be valid for a period of twelve (12) months from the date thereof, and which permit shall be exhibited by such person upon request by any person solicited. (Min. Bk. 5, p. 453; Comp. 1974, ch. 15)

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[7] For state law authorizing the county to regulate solicitors and peddlers generally, see Code of Va., § 15.2-913. For state law authorizing the county to regulate charitable and civic organizations soliciting within the county, see Code of Va., § 57-63.

Sec. 13-2-2. Exemptions from Article.

School children of the county shall be exempt from the requirements of this Article. (Min. Bk. 5, p. 453; Comp. 1974, ch. 15)

Chapter 14
MISCELLANEOUS OFFENSES

Sec. 14-1. Ball playing in court house yard.
Sec. 14-2. Hunting near public schools; possession of loaded firearm.
Sec. 14-3. Disposal of trash, etc., on public property and certain private property prohibited.
Sec. 14-4. Sale, distribution, consumption and possession of alcoholic beverages prohibited on county property; exceptions.

Chapter 14
MISCELLANEOUS OFFENSES

Sec. 14-1. Ball playing in court house yard.

All playing of ball of any kind in the court house yard by school children, or any other persons, is hereby prohibited. (Min. Bk. 2, page 380; Comp. 1974, ch. 17)

Sec. 14-2. Hunting near public schools; possession of loaded firearm.[1]

It shall be unlawful for any person to shoot or hunt with a firearm within one hundred (100) yards of any property line of a public school. It shall likewise be unlawful for any person to traverse an area while in possession of a loaded firearm within one hundred (100) yards of any property line of a public school. Any violation of this section shall be a Class 4 misdemeanor. (7-19-95)

Sec. 14-3. Disposal of trash, etc., on public property and certain private property prohibited.[2]

Any person shall be guilty of a misdemeanor who dumps or otherwise disposes of trash, garbage, refuse, litter, or other unsightly matter, on public property, including 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.

When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of section 46.2-936 of the Code of Virginia in making such arrest.

When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. However, such presumption shall be rebuttable by competent evidence.

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[1] For state law as to authority of county to prohibit hunting, etc., with a firearm near public schools, see Code of Va., § 29.1-527.

[2] For state law as to authority of county to prohibit disposal of trash, etc., on public and certain private property, see Code of Va., § 33.2-802.

Any person convicted of such violation shall be punished in accordance with Section 1-10 of this Code.

The provisions of this section shall not apply to the lawful disposal of such matter in landfills.
(Ord. 7-19-00; Ord. 11-18-15)

Sec. 14-4. Sale, distribution, consumption and possession of alcoholic beverages prohibited on county property; exceptions.[3]

(A) No person shall sell, give away or otherwise distribute; consume, or possess an open or previously opened container containing any alcoholic beverage; or be under the influence of an alcoholic beverage, while on any county property.

(B) Any person violating the provisions of this section shall, in addition, to any other penalty, be deemed to be a trespasser on the property on which such violation shall have taken place.

(C) Notwithstanding subsection (A), the sale, distribution, possession and consumption of alcohol by persons of legal age at certain public parks and recreation facilities may be permitted under certain conditions as more particularly set forth hereinafter.

(1) Beer and/or wine may be sold or otherwise distributed, consumed and possessed by persons otherwise permitted by law to possess the same and in accordance with the regulations of the Virginia Alcoholic Beverage Control Board ("ABC") for the following special events:

(a) Private events where alcohol is provided at no charge to guests, such as wedding receptions, retirement parties, etc., (commonly referred to as "banquets") which are hosted by private individuals;

(b) Special events hosted by duly organized, nonprofit corporations and associations raising money for athletic, charitable, educational, political, or religious purposes;

[3] For state law authorizing limiting the sale, distribution, consumption and possession of alcoholic beverages on county property, see Code of Va., § 4.1-128.B. For similar state law provisions, see Code of Va., § 4.1-308.

(c) Events (commonly referred to as "tastings") involving the sale or giving of samples for the purpose of educating the consuming public about alcoholic beverages being tasted.

(2) Each event shall be subject to a Facility Rental Agreement approved by the director of Parks and Recreation in a form approved by the county attorney. Each such agreement shall be accompanied by a copy of a current ABC license of a type appropriate to the event as well as proof of liability insurance, with the county as additional insured, in a form reasonably satisfactory to the county attorney. In addition to other provisions, each such agreement shall require the provision of security controls reasonably satisfactory to the director of Parks and Recreation. Approval of any such agreement shall be conditioned upon the payment to the county of a fee reasonably calculated to defray the expense of administration of this section not to exceed $1,000.

(3) Events permitted under this subsection may be located at one or more of the following locations and no others, which location shall be specified in the Facility Rental Agreement:

(a) Pleasant Grove (Manor House, Wedding Grounds, Pole Barn, Heritage Trail Shelter, Farmer's Market Grounds);

(b) Carysbrook Performing Arts Center (but not including the auditorium);

(c) Bremo picnic shelter; and

(d) Fluvanna County Community Center (Fork Union).

(4) Permits for events shall be subject to revocation for material violations of this section or of the Facility Rental Agreement or any associated ABC license.
(Ord. 7-20-11; Ord. 11-18-15)

Chapter 15
MOTOR VEHICLES AND TRAFFIC

Article 1. In General.

Sec. 15-1-1. State law adopted; penalties for violations.

Article 2. Motor Vehicle License Fee.[1]

Sec. 15-2-1. *Motor vehicle* defined.
Sec. 15-2-2. License fee levied.
Sec. 15-2-3. Amount of fee; when fee due and payable; collection; exemptions.
Sec. 15-2-4. License tax year.
Sec. 15-2-5. Exemptions from article.

Article 3. Abandoned Motor Vehicles.

Sec. 15-3-1. State law adopted; county administrator appointed agent for administration and enforcement.

[1] For state law as to local vehicle licenses, see Code of Va., § 46.2-752 et seq.

Chapter 15
MOTOR VEHICLES AND TRAFFIC[2]

Article 1. In General.[3]

Sec. 15-1-1. State law adopted; penalties for violations.

Pursuant to the authority of Virginia Code sections 46.2-1300 and 46.2-1313, all of the provisions and requirements of the laws of the Commonwealth contained in Title 46.2 and article 2 of chapter 7 of Title 18.2 of the Code of Virginia, as in force as of the effective date hereof, and as amended from time to time, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their 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, and the private roads within Lake Monticello residential development are hereby designated as highways for law-enforcement purposes. Such provisions and requirements are hereby adopted, *mutatis mutandis*, 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 law which is adopted by this section. Except as otherwise provided, each such violation shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars ($100); provided, however, 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 or article 2 of chapter 7 of Title 18.2 of the Code of Virginia. The provisions of Part Three B of the Rules of the Virginia Supreme Court shall apply, according to their terms, to violations of this section.

Article 2. Motor Vehicle License Fee.[4]

Sec. 15-2-1. *Motor vehicle* defined.

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[2] For state law as to motor vehicles generally, see Code of Va., Title 46.2.

[3] For state law as to powers of local governments with regard to regulation of vehicles and traffic, see Code of Va., § 46.2-1300 et seq.

[4] For state law as to local vehicle licenses, see Code of Va., § 46.2-752 et seq.

The term *motor vehicle* shall be construed to include every type of automobile, truck, tractor, motorcycle and every other type of motor driven vehicle, except farm tractors, farm vehicles, and other machinery and equipment which are not required to have a state license tag. (Ord. 10-9-61; Ord. 3-15-73; Min. Bk. 7, pp. 141-144; Comp. 1974, ch. 16; Ord. 5-4-81; Min. Bk. 10, p. 82; Ord. 10-3-88; Ord. 12-20-06)

Sec. 15-2-2. License fee levied.

Pursuant to the authority contained in section 46.2-752 of the Code of Virginia, an annual license fee is hereby levied and assessed upon all motor vehicles which are normally garaged, stored or parked in this county, and that are registered with the Department of Motor Vehicles as of January 1st of each year to operate upon the street or highway. In the event it cannot be determined where any such motor vehicle is normally garaged, stored or parked, the license fee shall apply to the vehicle if the owner thereof is domiciled in the county. (Ord. 10-9-61; Ord. 3-15-73; Min. Bk. 7, pp. 141-144; Comp. 1974, ch. 16; Ord. 5-4-81; Min. Bk. 10, p. 82; Ord. 10-3-88; Ord. 12-20-06; Ord. 9-21-16)

Sec. 15-2-3. Amount of fee; when fee due and payable; collection; exemptions.

The license fee on every motorcycle shall be eighteen dollars ($18) per year, and on every other type of motor vehicle shall be thirty-three dollars ($33) per year, payable to the treasurer of this county. Such license fee shall be due and payable on June 5 in each year. If any license fee owed pursuant to this article is not paid on or before its due date, then the treasurer may add the cost of any fee incurred by the county pursuant to section 46.2-752(J) of the Virginia Code to the license fee due and owing to the county. The treasurer shall, after the due date of any license fee required by this section, collect such license fee in accordance with the provisions of section 58.1-3919 of the Virginia Code and any other applicable law. Additionally, the treasurer shall have the authority to take action as authorized by section 46.2-752(J) of the Virginia Code. The foregoing notwithstanding, the license fee provided for by this Chapter shall not be assessed on vehicles owned by active members of volunteer rescue squads and active members of volunteer fire companies located in the county (at one vehicle per such member); and for the following who served at least ten (10) years in the county: former members of volunteer rescue squads and former members of volunteer fire companies located in the county (at one vehicle per such former member).[5] (Ord. 10-9-61; Ord. 3-15-73; Min. Bk. 7, pp. 141-144; Comp. 1974, ch. 16; Ord. 5-4-81; Min. Bk. 10, p. 82; Ord. 10-3-88; Ord. 5-21-97; Ord. 12-20-06; Ord. 4-20-11)

[5] For state law authorizing issuance of local motor vehicle licenses, see Code of Va., § 46.2-752.

Sec. 15-2-4. License tax year.

The motor vehicle license tax year shall be the calendar year, and the fee provided by this article shall be assessed as of January 1 in each calendar year. (Ord. 10-9-61; Ord. 3-15-73; Min. Bk. 7, pp. 141-144; Comp. 1974, ch. 16; Ord. 5-4-81; Min. Bk. 10, p. 82; Ord. 10-3-88; Ord. 12-20-06)

Sec. 15-2-5. Exemptions from article.

Nothing in this article shall be construed to require a license tax or fee of any person exempted under the provisions of any statute of the state, or for any vehicle for which no state license tag is required. (Ord. 10-9-61; Ord. 3-15-73; Min. Bk. 7, pp. 141-144; Comp. 1974, ch. 16; Ord. 5-4-81; Min. Bk. 10, p. 82; Ord. 10-3-88; Ord. 12-20-06)

Article 3. Abandoned Motor Vehicles.[6]

Sec. 15-3-1. State law adopted; county administrator appointed agent for administration and enforcement.

The provisions of chapter 12 of Title 46.2 of the Code of Virginia are hereby adopted and incorporated herein by reference, and shall apply in the county, as the same shall be amended from time to time. The county administrator is hereby appointed the agent of the county for purposes of administering and enforcing this section; and, to that end, subject to appropriation of funds sufficient therefor, the county administrator shall have all necessary authority to employ the personnel, equipment and facilities of the county and to hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles pursuant hereto. (Comp. 1974, ch. 16; Ord. 12-5-88)

[6] For state law as to abandoned, etc., vehicles, see Code of Va., § 46.2-1200 et seq. As to authority of county to adopt provisions of Title 46.2 by reference, see Code of Va., § 46.2-1313.

Chapter 15.1
NOISE CONTROL

Sec. 15.1-1. Purpose and intent.
Sec. 15.1-2. Administration and enforcement.
Sec. 15.1-3. Applicability.
Sec. 15.1-4. Definitions.
Sec. 15.1-5. Prohibited noise.
Sec. 15.1-6. Prohibited acts enumerated.
Sec. 15.1-7. Exempt sounds.
Sec. 15.1-8. Complaints of noise.
Sec. 15.1-9. Measurement of noise.
Sec. 15.1-10. Violation and penalty.

Chapter 15.1
NOISE CONTROL[1]

Sec. 15.1-1. Purpose and intent.

The board of supervisors hereby finds and declares that excessive or unwanted sound is a serious hazard to the public health, safety, welfare, and quality of life, and that the inhabitants of the county have a right to and should be free from an environment of excessive or unwanted sound. Therefore, it is the policy of the county and the purpose and intent of this Chapter to prohibit such excessive or unwanted sound as provided herein. (Ord. 9-19-01)

Sec. 15.1-2. Administration and enforcement.

The Sheriff is hereby designated the agent of the board of supervisors in the administration and enforcement of this Chapter. The Sheriff may be assisted in the enforcement of this Chapter by employees of the department of zoning, the department of engineering and public works, and other officers and employees of the county. (Ord. 9-19-01)

Sec. 15.1-3. Applicability.

This Chapter shall apply to sound generated within the county, regardless of whether the complainant or the receiving property is within or without the county. This Chapter shall be in addition to any sound or noise regulations set forth in the zoning ordinance. (Ord. 9-19-01)

Sec. 15.1-4. Definitions.

The following definitions shall apply to this Chapter. The definitions of any sound-related terms not defined herein shall be obtained from the American Standard Acoustical Terminology if defined therein.

(1) *Emergency operation*. The term *emergency operation* means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

(2) *Motorcycle.* The term *motorcycle* means any motorized vehicle, whether registered as a motor vehicle or not, designed to travel on not more than three (3) wheels in contact with the ground and any four (4)-wheeled vehicle weighing less than five hundred (500) pounds, excepting riding mowers, farm and lawn tractors.

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[1] For state law as to general powers of counties, see Code of Va., § 15.2-1200.

(3) *Motor vehicle.* The term *motor vehicle* means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a road, except devices moved by human power or used exclusively upon stationary wheels or tracks.

(4) *Noise.* The term *noise* means any sound which is excessive or unwanted, but does not include any sound which is exempt pursuant to Section 15.1-7 of this Chapter.

(5) *Person.* The term *person* means any natural person, association, partnership, corporation or other legal entity.

(6) *Road*. The term *road* means a public or private thoroughfare which affords access to abutting property.
(Ord. 9-19-01)

Sec. 15.1-5. Prohibited noise.

It shall be unlawful for any person to create or allow to be created any unreasonably loud, disturbing, raucous or unnecessary noise. Noise of such character, when its intensity and duration is detrimental to the life or health of any person, or which unreasonably disturbs or annoys the quiet, comfort or repose of any person, is hereby prohibited. (Ord. 9-19-01)

Sec. 15.1-6. Prohibited acts enumerated.

The following acts are declared to be unreasonably loud, disturbing, raucous or unnecessary noise prohibited by Section 15.1-5 of this Chapter, but this enumeration shall not be deemed to be exclusive:

(A) *Motor vehicle or motorcycle operation*. The operation, or permitting the operation, of any motor vehicle or motorcycle so as to create an unreasonably loud sound resulting from: (i) the removal, alteration or failure to properly maintain its muffler-exhaust or other noise-control equipment; (ii) jackrabbit starts, spinning tires, racing engines, or other operations; or (iii) a refrigeration unit mounted on a motor vehicle.[2]

(B) *Radios, tape players, televisions, musical instruments, sound amplification equipment, and electronic and similar devices.* The operation, or permitting the operation, of any radio, tape player, television, musical instrument, sound amplification equipment, electronic or other similar device in such a manner: (i) as to annoy or disturb the quiet, comfort or repose of any person in a dwelling, hotel or other type of residence, when such device is not operated in or on a motor vehicle; (ii) as to annoy or disturb the quiet, comfort or repose of any person across any real property

[2] For state law authorizing counties to regulate the noise of motor vehicles or motorcycles, see Code of Va., § 15.2-919.

boundary when such device is operated in or on a motor vehicle which is parked; or (iii) as to be audible by someone of normal hearing, from outside a motor vehicle at a distance of one hundred (100) feet or more, when such device is located within a motor vehicle which is parked or is being operated on a road.

(C) *Places of public entertainment*. The operation, or permitting the operation, of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in any place of public entertainment in such a manner as to annoy or disturb the quiet, comfort or repose of any person not within the place of public entertainment.

(D) *Noise near institutions*. The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while such institution is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institution or disturbs or unduly annoys patients in the hospital; provided that conspicuous signs are visible in such streets indicating that such street is a school, hospital or court street.

(E) *Sound level exceeding ambient sound level by 15 decibels*. The creation of sound which causes a fifteen (15) dBA increase in the sound level above the ambient sound level, as measured in accordance with Section 15.1-9 of this Chapter.
(Ord. 9-19-01; Ord. 11-18-15)

Sec. 15.1-7. Exempt sounds.

The following sounds shall not be prohibited by this Chapter:

(A) *Emergency operations*. Sound generated in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger.

(B) *Silvicultural or agricultural activities*. Sounds generated during lawfully permitted bona fide silvicultural or agricultural activities including, but not limited to, logging activities and sounds caused by livestock.

(C) *Construction, demolition and/or maintenance activities*. Sounds generated from construction, demolition and/or maintenance activities between 6:00 a.m. and 11:00 p.m.

(D) *Transient sounds from transportation*. Transient sounds generated by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit.

(E) *School and other athletic contests or practices, and other school activities*. Sounds generated from school and other athletic contests or practices, and other school activities, but only if

conditions are imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.

(F) *Parades, fireworks and similar officially sanctioned events*. Sounds generated from parades, fireworks or other similar events which are officially sanctioned, if required. This exemption shall not apply to private fireworks displays.

(G) *Yard maintenance activities*. Sounds generated from routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing.

(H) *Public facilities*. Sounds generated from the operation of a public facility or public use.

(I) *Warning devices*. Sounds generated by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.

(J) *Church bells or chimes*. Sounds generated by church bells or chimes.

(K) *Firearms*. Sounds generated from the lawful discharge of a firearm.

(L) *Animals*. Sounds generated from animals including, but not limited to, barking dogs.

(M) *Protected expression*. Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression.
(Ord. 9-19-01)

Sec. 15.1-8. Complaints of noise.

No person shall be charged with a violation of the provisions of Section 15.1-10 of this Chapter unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of the Sheriff, any of his deputies or any other police officer, he shall have the authority to initiate all necessary proceedings. (Ord. 9-19-01)

Sec. 15.1-9. Measurement of noise.

(A) Definitions.

The following definitions shall apply to this Chapter. The definitions of any sound-related term not defined herein shall be obtained from the American Standard Terminology if defined therein.

"*A" weighted sound level*. The term *A weighted sound level* means the sound pressure level

in decibels as measured on a sound level meter using the A-weighting network expressed as dB(A) or dBA.

Acoustic calibrator. The term *acoustic calibrator* means an instrument which measures the accuracy of a sound level meter.

Ambient sound. The term *ambient sound* means the sound derived from all sound associated with a given environment, being usually a composite of sounds from many sources.

Daytime. The term *daytime* means that period of a day beginning at 7:00 a.m. and ending at 11:00 p.m., each day of the week.

Decibel. The term *decibel* means a unit for measuring the volume of a sound equal to twenty times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

Emergency operation. The term *emergency operation* means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

Equivalent sound level (Leq). The term *equivalent sound level* means the average sound level accumulated over a given period of time. The equivalent sound level is the A-weighted sound level corresponding to a steady state sound level containing the same total sound energy as the time varying signal over a given period of time, determined using a sound level meter as set forth in the American National Standards for Sound Level Meters.

Impulse sound. The term *impulse sound* means any sound of short duration with an abrupt onset and rapid decay. This includes but is not limited to explosions, drum beats, drop forge impacts, discharge of firearms and one object striking another.

Nighttime. The term *nighttime* means that period of a day beginning at 11:00 p.m. and ending at 7:00 a.m., each day of the week.

Noise. The term *noise* means any sound which violates the sound level standards of this Chapter, but does not include any sound which is exempt pursuant to Section 15.1-7 of this Chapter.

Person. The term *person* means any natural person, association, partnership, corporation or other legal entity.

Property line. The term *property line* means an imaginary line along the ground surface which separates the real property owned by one person from another.

Public facility. The term *public facility* means a structure or use which may be publicly or privately owned or operated and which is generally open to the public, and includes but is not limited to schools, libraries, parks, hospitals and uses of a similar character.

Receiving zone. The term *receiving zone* means the zoning classification of the property receiving the noise, as shown on the official zoning maps. For property which is located within another jurisdiction, the zoning administrator shall determine the comparable zoning category, and be guided in making the determination by the actual use of the property. The receiving zones shall include property with the zoning classifications set forth below:

(a) *Commercial receiving zone*. A commercial receiving zone is property zoned business (B-1), convenience business (BC), the commercial areas of a planned unit development (R-3), and any other commercial zoning district.

(b) *Industrial receiving zone*. An industrial receiving zone is property zoned light industrial (I-1), highway industrial (I-2), the industrial areas of a planned unit development (R-3), and any other industrial zoning district.

(c) *Public space or institutional receiving zone*. A public space or institutional receiving zone is property determined by the zoning administrator to be a public facility or an institution.

(d) *Agricultural and residential receiving zone*. The rural areas and residential receiving zone is that property zoned agricultural (A-1), residential (R-1, R-2, R-3 and R-4) and any other agricultural or residential zoning district.

Sound level meter. The term *sound level meter* means an instrument used for making sound level measurements which meets the requirements of the American National Standards Institute Type II rating.

Source sound level. The term *source sound level* means the equivalent sound level of the source being measured.

Total sound level. The term *total sound level* means the equivalent sound level of the source being measured and ambient sound before correction to determine the source sound level.

(B) Procedure for measuring sound.

Each sound meter reading shall be conducted as provided herein:

(1) *Instrument of measurement*. Each sound measurement shall be taken only from a sound level meter.

(2) *Calibration of sound level meter*. An acoustic calibrator authorized by the manufacturer of the sound level meter shall properly calibrate the sound level meter used for each sound measurement in accordance with procedures specified by the manufacturer. After the initial calibration, the sound level meter shall be calibrated in accordance with procedures, and at regular intervals, as specified by the manufacturer.

(3) *Weather conditions*. A windscreen shall be used on the sound level meter when sound measurements are being taken. No outdoor sound measurements shall be taken during rain or during weather conditions in which wind sound is distinguishable from, and is louder to the ear than, the sound source being tested.

(4) *Scale*. Each sound measurement shall be expressed in units of the sound level (dBA), in accordance with American National Standards Institute specifications for sound level meters. Each measurement shall be made using the A-weighted scale with fast response, following the manufacturer's instructions and measuring the equivalent sound level. Impulse sounds shall be measured as the maximum reading and not the equivalent sound level.

(5) *Place of sound measurement*. Each sound measurement shall be taken no closer to the sound source than the property lines of the receiving zone properties or the property line along which a street fronts. If the property line of a receiving zone property is not readily determinable, the sound measurement shall be taken from any point inside the nearest receiving zone property, or within an occupied structure located on receiving zone property. If the property line abutting a street is not readily determinable, the sound measurement shall be taken from the edge of the pavement which is closest to the source of the sound. Each sound measurement taken of a sound source within a multifamily structure, such as an apartment building, townhouse development and the like, may be made: (i) within the interior of another residential unit in the same structure or the same development; or (ii) from common areas.

(6) *Orientation of microphone*. To the extent that it is practical to do so, the microphone of the sound level meter shall be positioned four (4) to five (5) feet above the ground or floor. The orientation recommended by the manufacturer of the sound level meter shall supersede the foregoing orientation if the manufacturer’s recommendation conflicts therewith.

(7) *Duration of measurement*. Each sound measurement shall be taken over a period of five (5) continuous minutes, unless the sound being measured is an impulse sound. If the sound being measured is an impulse sound, each sound measurement shall be taken during the "impulse" or emission of that sound. The zoning administrator shall determine whether a sound is an impulse sound for purposes of determining the duration of the sound measurement.

(8) *Ambient sound measurement*. The ambient sound shall be measured for each sound measurement as follows:

(a) The ambient sound level shall be averaged over a period of time comparable to that for the measurement of the particular sound source being measured.

(b) In order to obtain the ambient sound level, the sound source being measured shall be eliminated by the source ceasing its sound-producing activity and the ambient sound level shall be obtained from the same location as that for measuring the source sound level. If the sound from the sound source cannot be eliminated, the ambient sound level shall be measured from an alternative location whose ambient sound level is not affected by the sound source in accordance with the following procedure:

(i) The alternative location should be as close as feasible as that for measuring the source sound level, but located so that the sound from the source has as little effect as possible on the ambient sound level measurement. Even if the source sound is audible or is sufficient to raise the sound level above that which would be measured were it inaudible at the alternative location, the reading is sufficient for the purpose of this procedure.

(ii) The alternative location chosen must be such that structures in the vicinity are similar in size and distribution, and the local topography is similar in character to the location for the source sound level measurement.

(iii) Traffic conditions at the time the ambient sound level is measured must be similar to those at the location for the sound source measurement.

(9) *Determining source sound level*. Except for new equipment for which the owner provides manufacturer's specifications related to sound levels accepted by the zoning administrator, the sound level from a sound source shall be determined by correcting the total sound level for ambient sound in accordance with the following procedure:

(a) Subtract the maximum measured ambient sound level from the minimum measured total sound level.

(b) In Row A below, find the sound level difference determined under paragraph (a) and its corresponding correction factor in Row B.

Row A **Sound Level Difference (Decibels)**	0.5	1	2	3	4	5	6	7	8	9	10
Row B **Correction Factor (Decibels)**	9.6	7	4	3	1.8	1.6	1.2	1.0	0.75	0.6	0.5

(c) Subtract the value obtained from Row B under paragraph (b) from the minimum measured total sound level to determine the source sound level.

(d) If the difference between the total sound level and the ambient sound level is greater than 10 dBA, no correction is necessary to determine the source sound level.

(C) Maximum sound levels.

Except as otherwise expressly provided herein, maximum noise levels from any source shall be as set forth below:

Receiving Zone	Time Period	Noise Level (dBA)
Agricultural and Residential	Daytime Nighttime	60 55
Public Space or Institutional	Daytime Nighttime	60 55
Commercial	Daytime Nighttime	65 65
Industrial	Daytime Nighttime	70 70

(Ord. 9-19-01)

Sec. 15.1-10. Violation and penalty.

Any person who violates any provision of this Chapter and/or creates a noise disturbance, shall be deemed to be guilty of a class 1 misdemeanor. The person operating or controlling a sound source shall be guilty of any violation caused by that source. If the sound source cannot be determined, any owner, tenant or resident physically present on the property where the violation is occurring shall be rebuttably presumed to be guilty of the violation. (Ord. 9-19-01)

Chapter 16
OBSCENITY

Sec. 16-1. *Obscene* defined.
Sec. 16-2. Obscene items enumerated.
Sec. 16-3. Production, publication, sale, possession, etc., of obscene items; *distribute* defined.
Sec. 16-4. Obscene exhibitions and performances generally.
Sec. 16-5. Advertising obscene items, exhibitions or performances generally.
Sec. 16-6. Obscene placards, posters, bills, etc.
Sec. 16-7. Proceeding against obscene book or motion picture film.
Sec. 16-8. Applicability of chapter.

Chapter 16
OBSCENITY[1]

Sec. 16-1. *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. (Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-2. Obscene items enumerated.[2]

For the purposes of this chapter, obscene items shall include:

(1) Any obscene book;

(2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, video tape or disc, slide, motion picture, video recording;

(3) 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; or

(4) Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in perceivable form.

(Comp. 1974, ch. 17; Ord. 4-1-85; Ord. 11-18-15)

Sec. 16-3. Production, publication, sale, possession, etc., of obscene items; *distribute* defined.

(A) It shall be unlawful for any person to knowingly:

(1) Prepare an obscene item for the purpose of sale or distribution; or

[1] For state law as to obscenity and related offenses, see Code of Va., § 18.2-372 et seq.

[2] For similar state law provision, see Code of Va., § 18.2-373.

(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 Chapter.

(B) For the purposes of this Chapter, *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.
(Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-4. 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, lend or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance.
(Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-5. 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 this chapter, or of any obscene performance or exhibition referred to in this Chapter, stating

or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard. (Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-6. 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 this Chapter, or any obscene exhibition or performance referred to in this Chapter, or to knowingly permit the same to be displayed on property belonging to or controlled by such person. (Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-7. Proceeding against obscene book or motion picture film.

(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) The procedure for such proceeding shall be identical in all particulars to that set forth in section 18.2-384 of the Code of Virginia, as effective April 1, 1985, which is hereby incorporated by reference into this chapter *mutatis mutandis* and shall likewise apply to motion picture films as set forth in section 18.2-385 of the Code of Virginia, as effective April 1, 1985.
(Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-8. Applicability of chapter.

Nothing contained in this chapter 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; or

(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.

(Comp. 1974, ch. 17; Ord. 4-1-85)

Chapter 17
PERSONNEL

Sec. 17-1. State retirement system made applicable to eligible persons.
Sec. 17-2. Grievance procedure; personnel system.
Sec. 17-3. Criminal background checks required for potential county employees and for certain permittees and licensees.

Chapter 17
PERSONNEL

Sec. 17-1. State retirement system made applicable to eligible persons.[1]

The board of supervisors hereby elects to have such of the employees and officers of the county, who are regularly employed full time on a salary basis, and whose tenure is not restricted as to temporary, or provisional appointment, to become eligible, effective as of October 1, 1958, to participate in the state retirement system, under the conditions set forth in chapter 1 of Title 51.1 of the Code of Virginia, as such code has been or may be amended from time to time and the county agrees to pay its cost for participation of its employees for all services for the county prior to October 1, 1958, for which credit is authorized and established on forms required and also to deduct from such employees' wages, and pay over in the manner prescribed, the respective amounts required by law. (Min. Bk. 5, p. 379; Comp. 1974, ch 19)

Sec. 17-2. Grievance procedure; personnel system.

The county shall have a grievance procedure and a personnel system, including a classification plan for service and uniform pay plan for all employees excluding employees and deputies of division superintendents of schools. Except as otherwise provided by law, employees of the department of social services and the social services board shall be excluded from such personnel system. The grievance procedure, classification plan for service and uniform pay plan shall be approved, and may be amended, from time to time, by resolution of the board of supervisors and shall comply with the provisions of sections 15.2-1506 and 15.2-1507 of the Code of Virginia. Nothing contained in this section shall be construed to affect the repeal or revision of the grievance procedure, classification plan for service and uniform pay plan in effect on the effective date hereof, and the same shall remain in effect except to the extent that the same may be modified as provided herein.
(Ord. 11-18-15)

Sec. 17-3. Criminal background checks required for potential county employees and for certain permittees and licensees.[2]

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[1] For state law as to the Virginia Retirement System, see Code of Va., § 51.1-124.2 et seq.

[2] For state law as to authority of county regarding criminal background checks, see Code of Va., §§ 15.2-1503.1 and 19.2- 389.

Every applicant for employment with the county and applicants for county license or permit, as hereinafter provided, shall submit to fingerprinting and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Such applicant shall pay the cost of the fingerprinting and criminal records check. The foregoing shall be required for all applicants for employment with the county and, except as may otherwise be determined by the board of supervisors in a particular case, for every volunteer, permittee or licensee position, in which the permittee or licensee has regular and direct contact with (a) persons under the age of 18 years; (b) persons over the age of 18 years who are disabled as a result of advanced age or other physical or mental condition; (c) public monies; or (d) activities relating to law enforcement. In the case of any applicant for employment, permit or license, such review shall be completed as a part of the process of application for employment, permit or license, and satisfactory completion of such review shall be a precondition of any offer of employment, permit or license; provided, however, that county may, in the discretion of the county administrator, offer such employment, permit or license, subject to the satisfactory completion of such review within a reasonable time after the commencement of such employment, permit or license. If an applicant is denied employment or a license or permit because of the information appearing in his criminal history record, the county shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided herein. (Ord. 6-21-00; Ord. 6-18-03)

Chapter 18
ROADS AND HIGHWAYS

Sec. 18-1. Lake Monticello roads and streets designated *highways* for law-enforcement purposes.
Sec. 18-2. Naming of streets, roads and alleys.

Chapter 18
ROADS AND HIGHWAYS[1]

Sec. 18-1. Lake Monticello roads and streets designated *highways* for law-enforcement purposes.

Pursuant to the authority contained in section 46.2-100 of the Code of Virginia, the entire width between the boundary lines of all private roads and private streets in the Lake Monticello subdivision (Phases 1 through 12 Addition I, inclusive) are hereby specifically designated *highways* for law-enforcement purposes only. (Comp. 1974, ch. 20)

Sec. 18-2. Naming of streets, roads and alleys.

(A) The board of supervisors may, from time to time, by resolution, name streets, roads and alleys within the county. Such names shall take precedence over any other designation except those primary highways conforming to section 33.1-12 of the Code of Virginia, and shall be employed in references to property abutting thereon.

(B) The name of each street shown on a subdivision plat approved pursuant to Chapter 19: Subdivisions of this Code and subsequently recorded in the office of the clerk of the circuit court shall be deemed to have been approved pursuant to this section.

(C) The board of supervisors may, in its discretion, rename any street previously known by another name. Renaming streets, roads and alleys on site plans or subdivision plats previously recorded and filed in office of the clerk of the circuit court shall not cause vacation of such site plans or subdivision plats. The board of supervisors shall forward a certified copy of the action effecting such name change to the clerk of the circuit court in which the site plan or subdivision plat is recorded or filed. Upon receipt, the clerk shall (i) file the certified copy and note the name change on the site plan or subdivision plat affected, or (ii) record the certified copy.

(D) A complete and up-to-date list of the streets, roads and alleys shall be maintained in the office of the commissioner of revenue. It shall be the duty of the county administrator to ensure that an accurate list of streets, roads and alleys named by the board of supervisors pursuant to this section, whether by resolution or by approval of a subdivision

[1] For state law as to highways generally, see Code of Va., Tit. 33.2; as to local authority over highways, see Code of Va., § 33.2-700 et seq.

plat, be provided to the commissioner of revenue promptly upon the action of the board. (Ord. 3-15-00; Ord. 11-18-15)

Chapter 19
SUBDIVISIONS

Article 1. General Provisions.

Sec. 19-1-1. Purpose.
Sec. 19-1-2. Jurisdiction.
Sec. 19-1-3. Plat required.

Article 2. Definitions.

Sec. 19-2-1. Rules of construction; definitions.

Article 3. Process.

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Article 4. Sketch Plans.

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Sec. 19-4-1.1. Standards of review.
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Sec. 19-4-3. Sketch plan information.
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Article 5. Preliminary Plats.

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Sec. 19-5-1.1. Standards of review.

Sec. 19-5-2. Form.
Sec. 19-5-3. Preliminary plat information for minor subdivisions.
Sec. 19-5-4. Preliminary plat information for major subdivisions.
Sec. 19-5-5. Proposed improvements.

Article 6. Final Plats.

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Sec. 19-6-2. Form.
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Article 7. Subdivision Design Standards.

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Sec. 19-7-8. Compliance with Chapter 22 of this Code.

Article 8. Required Improvements.

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Sec. 19-8-2.5. Maintenance.

Sec. 19-8-3. Wastewater treatment.
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Article 9. Administration.

Sec. 19-9-1. Subdivision Agent.
Sec. 19-9-2. Exceptions.
Sec. 19-9-3. Appeal to board of supervisors.
Sec. 19-9-4. Appeal to Circuit Court.
Sec. 19-9-5. Vacation of plats.
Sec. 19-9-6. Fees.

Chapter 19
SUBDIVISIONS[1]

Article 1. General Provisions.

Sec. 19-1-1. Purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare; further the orderly development and use of land; lessen congestion of the county's road system; provide for safe and proper ingress and egress to lots; ensure proper legal description of subdivided land; provide for adequate light and air; facilitate adequate provisions for transportation, water, sewage, drainage, schools, parks, playgrounds, and other public requirements; secure safety from fire, flood, panic, and other dangers; facilitate the further resubdivision of parcels or tracts of land in growth areas designated by the Fluvanna County Comprehensive Plan; preserve outstanding natural or cultural features and historic sites and structures; preserve the rural landscape of the county; and provide other benefits to the health, comfort, safety or welfare of the present and future population of the county in accordance with all elements of the Comprehensive Plan. This chapter shall be interpreted in conjunction with the Comprehensive Plan and Chapter 22 of this Code.[2]

Sec. 19-1-2. Jurisdiction.

This chapter shall apply to all lands in Fluvanna County, Virginia, including those covered by water; except for the areas within the corporate limits of the Town of Scottsville and the Town of Columbia.

Sec. 19-1-3. Plat required.[3]

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[1] For state law as to subdivision and development of land, see Code of Va., § 15.2-2240, et seq.

Editor's note -- The Subdivision Ordinance of Fluvanna County, Virginia, was adopted 4-22-74, revised 2-3-94, 2-4-04 and generally ratified 5-5-04. Amendments subsequent to 5-5-04 are identified in this chapter by the date of amendment in parentheses following the affected section.

[2] Chapter 22 of this code sets out the provisions adopted as the Zoning Ordinance of Fluvanna County, Virginia.

[3] For similar state law provision, see Code of Va., § 15.2-2254.

No person shall subdivide land without making and recording a plat of such subdivision and fully complying with the provisions of this Chapter.

(A) No such plat shall be recorded unless it is in compliance with this ordinance and has been approved by the Subdivision Agent appointed by the Fluvanna County Board of Supervisors as provided in this Chapter.

(B) No person shall sell or convey any lot or part of a subdivision unless the plat of the subdivision has been approved and recorded.

(C) Any person violating the foregoing provisions of this section shall be subject to a fine of not more than $500 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this Chapter.

(D) No clerk of any court shall file or record a plat of a subdivision required by this Chapter to be recorded until such plat has been approved as required by this Chapter.

(E) No permit or other approval shall be issued by any official of the county for any improvement relating to any lot or parcel of land subdivided or transferred or sold in violation of this Chapter until such violation shall have been abated.
(Ord. 12-16-15)

Article 2. Definitions.

Sec. 19-2-1. Rules of construction; definitions.

For the purposes of this chapter, the present tense may include the past or future, the singular number may include the plural, the masculine gender may include the feminine or neuter, and the following terms shall have the indicated meaning:

Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Central sewerage system. A sewage system consisting of pipelines or conduits, pumping stations, force mains or sewerage treatment plants, or any of them, or an extension of any existing system which is designed to serve three or more (≥ 3) connections and used for conducting or treating sewage, as that term is defined in Chapter 3.1 (Sec. 62.1-44.2 et

seq.) of Title 62.1 of the Code of Virginia[4], to serve or to be capable of serving three or more (≥ 3) connections. (Ord. 9-17-08)

Central water system. A water supply consisting of a well, springs, or other source and the necessary pipes, conduits, mains, pumping stations, and other facilities in connection therewith, to serve or to be capable of serving three or more connections. (Ord. 9-17-08)

Code. The Code of Virginia, 1950, as amended.

Commission. The Planning Commission of Fluvanna County, Virginia.

Comprehensive plan. The Fluvanna County Comprehensive Plan.

Cul-de-sac. The turnaround at the end of a dead-end street

Family subdivision. A single division of a lot or parcel for the purpose of a gift or sale to any natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.

Floodplain. Any area defined as such in Chapter 22 of this Code.

Lot. A parcel of land, including a residue, described by metes and bounds or otherwise or shown on a plat, and intended as a unit of real estate for the purpose of ownership, conveyance or development.

Lot of record. A parcel of land recorded by the Clerk of the Circuit Court as an individual unit of real estate for the purpose of ownership or conveyance.

Major subdivision. The division of a parcel of land into six or more (≥ 6) lots, and not a family subdivision. A subdivision shall be deemed to be a major subdivision if the parcel from which such subdivision is divided was, within the five (5) years next preceding the application, divided into an aggregate of five or more (≥ 5) lots or divided in such a way as to create a new public or central water or sewer system or one or more (≥ 1) public streets.

Minor subdivision. Any division of a parcel of land creating fewer than six (< 6) lots, and not a family subdivision.

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[4]*Editor's note*: The editor of this code has inserted "of the Code of Virginia", which did not appear in the ordinance adopted 9-17-08.

Plat. A schematic representation of a parcel or subdivision.

Plat, preliminary. A plat showing the existing boundaries and certain existing features of a parcel to be subdivided, together with the property lines of proposed lots and certain proposed features and improvements.

Plat, final. A plat showing the new property lines and certain features and improvements installed pursuant to the preliminary plat, showing their location as built, and prepared for recordation. Final plat approval gives the subdivider the right to record such plat with the Clerk of the Circuit Court and to convey the individual lots shown thereon.

Property owners' association. An entity established, pursuant to section 55-508 et seq. of the Code of Virginia, or otherwise, for the purpose of maintaining land or property owned in common by the owners of property in a subdivision.

Public water or sewer system. A water or sewer system owned and operated by a municipality, county, or other political subdivision of the Commonwealth.

Residue. The remainder of a lot after a subdivision has detached one or more (≥ 1) lots, which residue shall be deemed, for purposes of this chapter, to be a new lot.

Right-of-way. A strip or other portion of a parcel of land conveyed to a person, a partnership, a property owners' association, a corporation, or a government agency for the purpose of constructing and maintaining a road or utility facility, or a similar use.

Sketch plan. A conceptual, informal map of a proposed subdivision and the surrounding area, of sufficient accuracy to be used for the purpose of discussion.

Street. A thoroughfare for vehicular traffic, interchangeable with the terms avenue, boulevard, court, drive, highway, lane, road, or any similar term.

Subdivider. Any individual, partnership, corporation or group thereof owning or having an interest in land, or representing the owners of any land and proposing to subdivide such land.

Subdivision. The division of any lot, parcel or tract of record into two or more (≥ 2) lots, parcels or tracts, including residue, for the purpose of recordation, transfer of ownership, lease, or building development any one of which lots, parcels or tracts is less than sixty (60) acres in area or has less than 1,500 feet of frontage on a highway maintained by the Virginia

Department of Transportation. As the context requires, the term "subdivision" may mean the land divided, the process of division, or both.

Subdivision Agent. The individual appointed and authorized by the Fluvanna County board of supervisors to administer and enforce this Chapter.

Article 3. Process.

Sec. 19-3-1. General.

All sketch plans, preliminary plats, and final plats shall be reviewed and approved or disapproved in accordance with the procedures specified in this Article.

Sec. 19-3-2. Sketch plan.

(A) For any minor or major subdivision, the subdivider shall submit a sketch plan that satisfies the requirements of Article 4 of this chapter to the Subdivision Agent, who shall comment in writing and provide such comments to the subdivider within thirty (30) days of submission. The Subdivision Agent shall also provide a determination whether the proposed subdivision, as presented, would be classified as a family subdivision, minor subdivision, or major subdivision under this Chapter.

(B) If the Subdivision Agent determines the proposed subdivision is a major subdivision, the subdivider shall provide twenty (20) copies of the sketch plan and any revisions to the Subdivision Agent. The Subdivision Agent shall then place this item on the agenda of the Planning Commission within sixty (60) days of receiving the sketch plans. The Subdivision Agent shall also forward any staff comments to the Planning Commission.

(C) The Planning Commission shall review and provide comments within forty-five (45) days of the date of the meeting the sketch plan was presented. If no comments are presented to the Subdivision Agent, the sketch plan is deemed reviewed and the subdivider may submit a preliminary plat.

(D) Thereafter, no preliminary or final plat shall be approved by the Subdivision Agent unless the same shall substantially conform to the approved sketch plan, including all required modifications thereto, which may be required as a result of comments by the Planning Commission.

Sec. 19-3-3. Family subdivisions.

Any family subdivision shall comply with the following standards:

(A) All lots created shall comply with Chapter 22 of this Code.

(B) All lots must have a permanent access easement to a public road, not less than twenty (20) feet in width. Where practicable, all lots must use the same easement for access, and shall not have separate driveway entrances on the public road.

(C) Only one (1) lot shall be created and conveyed to each eligible family member, as defined in Section 19-2-1. Prior to approval of the final plat, the subdivider shall provide to the Subdivision Agent an executed deed of conveyance to an eligible family member for each lot created. Included in such deed shall be a restriction preventing sale of such lot after dedication for a period of not less than three (3) years. The lot may be transferred prior to the conclusion of the three (3) year period, if the Subdivision Agent shall determine that there is a compelling need to convey such parcel and that the conveyance of such parcel shall not be for purposes of circumventing the review provisions of this chapter. *Compelling need* shall include, but shall not necessarily be limited to, (1) removal of the residence of the owner of such lot from the county when such lot is the residence of such owner; (2) sale by or at the request of a bona fide creditor pursuant to a deed of trust, action of trustee in bankruptcy or the order of a court of competent jurisdiction; and (3) death or physical or mental disability of the owner.

(D) No lot created under this Section shall be for the purpose of circumventing the minor or major subdivision provisions of this Chapter.

Sec. 19-3-4. Preliminary plat.[5]

For any minor or major subdivision, after receiving the Subdivision Agent's comments on a sketch plan, the subdivider shall submit a preliminary plat that satisfies the requirements of Article 4 of this Chapter to the Subdivision Agent.

(A) For every minor or major subdivision, the subdivider shall submit, to the Subdivision Agent, copies of a preliminary plat in a number sufficient to allow review by all appropriate agencies as applicable and as determined by the Subdivision Agent. Within ten (10) days the Agent shall review the preliminary plat application for completeness, and if it is

[5] For state law authorizing counties to require a preliminary plat, see Code of Va., § 15.2-2260. For state law regarding preliminary plat approval, see Code of Va., §§ 15.2-2258, 15.2-2259.

incomplete, so notify the subdivider, specifying instructions for its completion. No preliminary plat shall be deemed to be officially submitted for approval unless and until the Subdivision Agent finds it to be complete. Upon his determination that such preliminary plat application is complete, the Subdivision Agent shall retain copies for his review, forward copies to all agencies whose comments are necessary for consideration of the plat.

(B) For any minor subdivision, the Subdivision Agent shall approve or disapprove a complete preliminary plat within thirty (30) days of its submission. In the case of disapproval, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval.

(C) For any major subdivision, the Subdivision Agent shall review the preliminary plat and approve or disapprove the preliminary plat within forty-five (45) days of its submission. In the case of disapproval, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval.
(Ord. 12-16-15)

Sec. 19-3-5. Authority to construct improvements.

The subdivider may install the monuments, roads and other improvements proposed on the plat only after approval of a preliminary plat. Preliminary plat approval shall be effective for five (5) years provided the subdivider submits a final subdivision plat for all or a portion of the property within one year of such approval and thereafter diligently pursues approval of the final subdivision plat.

Diligent pursuit of approval means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three (3) years following such preliminary subdivision plat approval, and upon ninety (90) days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of fact that the subdivider has not diligently pursued approval of the final subdivision plat.

After five (5) years from the date of the last recorded plat, unless the preliminary plat indicates phased implementation consisted with Section 19-7-6 of this Chapter, the preliminary plat shall become null and void. The foregoing notwithstanding, the installation of any improvements after the approval of a preliminary plat shall be at the sole risk of the subdivider and shall not entitle the subdivider to the approval of any final plat which is not otherwise approvable.
(Ord. 12-16-15)

Sec. 19-3-6. Final plat.

All final plats shall be reviewed and acted upon as required by section 15.2-2259 of the Code of Virginia and this Chapter. (Ord. 12-16-15)

Sec. 19-3.6.1. Review for completeness.

Within ten (10) days the Subdivision Agent shall review the final plat for completeness, and if the application is incomplete, so notify the subdivider within ten (10) days, specifying instructions for its completion.

Sec. 19-3-6.2. Administrative review.

The Subdivision Agent shall review the final plat within sixty (60) days of acceptance for conformity to the approved preliminary plat and this chapter, and approval by all appropriate agencies. The Subdivision Agent shall forward any legal documents submitted pursuant to Section 19-6-4 of this Chapter to the county attorney for review and approval, and the county attorney shall review such documents for compliance with applicable law. If the final plat and associated legal documents meet these criteria, the Subdivision Agent shall approve the final plat and return it to the subdivider. If they do not meet these criteria, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval. Any resubmission of the plat shall be reviewed within forty-five (45) days.

Sec. 19-3-6.3. Recordation.

An approved plat shall be filed for recordation within six (6) months after final approval. Such approval shall be withdrawn and the plat marked void and returned to the approving official if the approved plat is not filed for recordation within six (6) months, subject to the exception for facilities to be dedicated to public use in section 15.2-2241.A(8) of the Code of Virginia. (Ord. 12-16-15)

Article 4. Sketch Plans.

Sec. 19-4-1. Purpose.

The purpose of the sketch plan requirement is to provide the subdivider with the Subdivision Agent's informal comments to assist in subdivision design, before investing in preparation of a preliminary or final plat. It is a tool to help the Subdivision Agent and the subdivider develop a better understanding of the property, and to help establish an overall

design approach that respects the property's special or noteworthy features, and is consistent with the Comprehensive Plan, while providing for the density permitted under Chapter 22 of this Code.

Sec. 19-4-1.1. Standards of review.

The Subdivision Agent shall review the sketch plan in accordance with the design criteria contained in Article 7, Subdivision Design Standards**,** of this Chapter and with other applicable chapters of this Code. The Agent's review shall informally advise the subdivider of the extent to which the proposed subdivision conforms to the standards of Article 7 and the objectives and policy recommendations of the Comprehensive Plan, and may suggest possible plan modifications that would increase its degree of conformance. The Agent's review shall include but is not limited to:

(A) Location of all areas proposed for land disturbance with respect to notable features identified on the sketch plan;

(B) Potential for street connections with existing streets, other proposed streets, or potential developments on adjoining parcels;

(C) Location of proposed access points along the existing road network;

(D) Consistency with Chapter 22 of this Code.

Sec. 19-4-2. Form.

Sketch plans shall consist of black or blue lines on white paper. Each page shall be no more than forty-two (42) inches wide or thirty (30) inches high. Sketch plans shall be drawn to a scale of one inch equals 50, 100, or 200 feet, whichever is most convenient for the subject parcel.

Sec. 19-4-3. Sketch plan information.

The sketch plan shall clearly show:

(A) Name, address and telephone number of the owner and the subdivider;

(B) Name, address and telephone number of the professional engineer, surveyor, planner, architect, landscape architect, or site designer responsible for preparing the plan, if any;

(C) Graphic scale, date and north arrow;

(D) Approximate tract boundaries;

(E) Zoning district;

(F) Streets on and adjacent to the tract;

(G) 100-year floodplain limits and approximate location of wetlands, if any; and

(H) Approximate location of topographic and physical features including fields, pastures, meadows, wooded areas, trees of special merit, steep slopes, rock outcrops, ponds, existing rights-of-way and easements, and cultural features such as all structures, foundations, walls, trails, and abandoned roads.

Sec. 19-4-4. Proposed development.

The sketch plan, or accompanying drawings, shall clearly show:

(A) Schematic layout indicating a general concept for land conservation and development;

(B) Proposed general street and lot layout;

(C) Proposed location of buildings, major structures, parking areas, driveways and other improvements; and

(D) General description of proposed method of water supply, sewage disposal, and stormwater management.

Sec. 19-4-5. Yield plan required for cluster subdivision.

The applicant for approval of any cluster subdivision shall submit a yield plan to determine the number of lots which could be practicably developed on the subject property as a conventional subdivision, in accordance with all applicable law, including, in particular, the density, lot size, setback, frontage and yard requirements of Chapter 22 of this Code; the design requirements of this Chapter; and all other applicable law. Consideration shall be given, among other things, to the area of land which would be occupied by roads and other areas not usable for building or individual sale, including, but not limited to, steep slopes,

flood plain, land usually covered by water and land not suitable for building and/or installation of utilities due to soil type, topography or other physical of legal condition. Such yield plan shall be submitted contemporaneously with the sketch plan required by Article 3 of this Chapter and shall be in similar detail to such sketch plan, together with such additional data as may be necessary to show the information required hereinabove. The yield plan so submitted shall be considered by the planning commission in its review of the sketch plan for the proposed subdivision. In no case shall any cluster subdivision be approved which shows a greater number of lots than could be practicably developed as a conventional subdivision of the subject property.

Article 5. Preliminary Plats.

Sec. 19-5-1. Purpose.

The purpose of the preliminary plat requirement is to provide the subdivider and the county with a conceptual drawing indicating, with a greater degree of specificity than the sketch plan, the subdivider's intentions for subdividing a tract. Subdividers are expected to consider the Subdivision Agent's informal comments on the sketch plan when preparing the preliminary plat. Approval of the preliminary plat by the Subdivision Agent confers upon the subdivider the right to construct improvements and submit a final plat for approval, in accordance with Section 19-3-4 of this Chapter.

Sec. 19-5-1.1. Standards of review.

The Subdivision Agent shall review the preliminary plat for accuracy and conformance with the design criteria contained in Article 7 of this Chapter and with other applicable chapters of this Code, and shall approve or disapprove the preliminary plat. In the case of disapproval, the Subdivision Agent shall notify the subdivider of the modifications necessary to obtain approval.

Sec. 19-5-2. Form.

Preliminary plats shall consist of black or blue lines on white paper. Each page shall be no more than forty-two (42) inches wide or thirty (30) inches high. Plats shall be drawn to a scale of one inch equals 50, 100 or 200 feet, whichever is most convenient for the subject parcel. If the plat is drawn on more than one sheet, match lines shall clearly indicate where the several sheets join. Each sheet shall be numbered and the plat shall provide an adequate legend indicating clearly which features are existing and which are proposed.

Sec. 19-5-3. Preliminary plat information for minor subdivisions.

The preliminary plat for a minor subdivision shall clearly show:

(A) Name of proposed subdivision;

(B) Name, address and telephone number of the owner and the subdivider;

(C) Name, address and telephone number of the professional engineer, surveyor, planner, architect, landscape architect, or site designer responsible for preparing the plan;

(D) Graphic scale, title, date and north arrow;

(E) Scaled vicinity map showing the location of the parcel to be subdivided and its relationship to the surrounding roads;

(F) Location and identification of any town or county boundary;

(G) Boundaries of the parcel to be subdivided with all bearings and distances indicated;

(H) In the case of resubdivision, the existing lot layout;

(I) Zoning district, tax parcel number, source of title, and location of the last instrument in the chain of title for all parcels to be subdivided, and the owners of record of all adjoining property;

(J) Location, identification and width of all easements and rights-of-way for streets, railroads, utility facilities or similar uses, on or adjacent to the subject parcel;

(K) Total acreage of the tract;

(L) Topographic contours as shown on applicable U.S. Geological Survey quadrangle 7.5 minute series sheets;

(M) Location and identification of all streams, rivers, ponds, lakes, wetlands, drainage channels, 100-year flood plains, slopes exceeding twenty percent (20%) and similar features;

(N) Location and size of all existing buildings, water and sewer lines, wells and drainfields on the subject parcel.

Sec. 19-5-4. Preliminary plat information for major subdivisions.

The preliminary plat for a major subdivision shall clearly show, for the subject tract:

(A) All items in Section 19-5-3;

(B) The location and delineation of ponds, streams, ditches, drains, and natural drainage swales, 100-year flood plains, as defined in Chapter 22, and areas of wetlands as evident from testing, visual inspection, or from the presence of wetland vegetation;

(C) Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, hedgerow, woodland and wetland;

(D) Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction, and, in areas not served by a public or central sewerage system, for septic suitability;

(E) Ridge lines and watershed boundaries;

(F) A viewshed analysis showing the location and extent of views into the property from adjoining public roads;

(G) Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, sinkholes, and fault lines, based on available published information or more detailed data obtained by the applicant;

(H) All existing man-made features including but not limited to streets, driveways, farm roads, woods roads, buildings, foundations, walls, drainage fields, dumps, utilities, fire hydrants, and storm and sanitary sewers;

(I) Locations of all historically significant sites or structures on the tract, including but not limited to cellarholes, stone walls, earthworks, and graves.

Sec. 19-5-5. Proposed improvements.

The preliminary plat, or accompanying drawings, shall clearly show:

(A) Total number of proposed lots, with minimum, maximum and average area indicated; acreage of any residue; and supporting calculations demonstrating compliance with Article 7 of this Chapter and Chapter 22 of this Code;

(B) Layout of all proposed lots, including approximate area, dimensions, building setback lines, easements, and lot and block numbers;

(C) Approximate locations of proposed driveway connections onto public streets;

(D) General grading plan, showing areas of substantial clearing, cutting or filling, and showing the limits of land disturbance;

(E) If new streets are proposed, approximate location, alignment and width of proposed streets or rights-of-way with proposed names, cross section, type and thickness of each material, and other details sufficient to satisfy the preliminary approval requirements of the Virginia Department of Transportation;

(F) If new streets or significant areas of impervious surface are proposed (>16%), plans of stormwater management system in compliance with Virginia Stormwater Management Regulations, showing dimensions, invert elevations, and other details sufficient to satisfy the preliminary approval requirements;

(G) If septic systems are proposed, locations of proposed areas on each lot for septic drainfields, including reference to supporting data which establishes the suitability of each area and is sufficient to satisfy the preliminary approval requirements of the Virginia Department of Health;

(H) If a public or central water system is proposed, plans of water supply, treatment, distribution and fire protection system, showing pipe dimensions and other details sufficient to satisfy the preliminary approval requirements of the Virginia Department of Health and the agency to be resonsible for system maintenance;

(I) If a public or central sewerage system is proposed, plans of sanitary sewer collection and treatment, showing pipe dimensions and other details sufficient to satisfy the preliminary approval requirements of the Virginia Department of Environmental Quality and the agency to be responsible for system maintenance;

(J) Designation of all land to be reserved or dedicated for public or common use, showing location, size, shape, proposed ownership, and proposed responsibility for maintenance;

(K) Conceptual locations of proposed dwelling sites and uses other than single-family detached dwellings; and

(L) Approximate location of proposed shade trees, significant landscaping, and areas of existing vegetation to be retained.

Article 6. Final Plats.

Sec. 19-6-1. General requirements.

The subdivider shall submit to the Subdivision Agent a final plat (at least two (2) copies in the case of minor subdivisions or family subdivisions, or at least five (5) copies in the case of major subdivisions) that meets the standards for plats under section 42.1-82 of the Virginia Public Records Act (Section 42.1-76 et seq.), and conforms to the requirements of the following subsections.

Sec. 19-6-2. Form.

Final plats shall consist of black or blue lines on white paper. Each page shall be no more than forty-two (42) inches wide or thirty (30) inches high. Final plats shall be drawn to a scale of one inch equals 50, 100 or 200 feet, whichever is most convenient for the subject parcel. If the plat is drawn on more than one sheet, match lines shall clearly indicate where the several sheets join. All straight lines shall be described with distance to the nearest hundredth of a foot and bearing to the nearest second. All curves shall be described with central angle to the nearest minute, radius to the nearest foot, and tangent to the nearest hundredth of a foot.

Sec. 19-6-3. Final plat information.

The final plat shall clearly show:

(A) Name of proposed subdivision;

(B) Name, address and telephone number of subdivider;

(C) Name, address, telephone number, and seal of surveyor or engineer;

(D) Graphic scale, title, date, and north arrow;

(E) Scaled vicinity map showing the location of the parcel to be subdivided and its relationship to the surrounding roads;

(F) Locations of proposed driveway connections onto public streets;

(G) Boundaries of the parcel to be subdivided with all bearings and distances indicated;

(H) Tax parcel number, zoning district, source of title, and location of the last instrument in the chain of title for all parcels to be subdivided;

(I) Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every road centerline, subdivision boundary line and lot line;

(J) All rights-of-way, easements, or areas to be dedicated, reserved, or used for any purpose other than single-family detached dwellings. Common or shared easements shall be provided for public service corporations and other service providers in accordance with the requirements of section 15.2-2241.A(6) of the Code of Virginia; and

(K) Sufficient data to demonstrate compliance with the approved preliminary plat. (Ord. 12-16-15)

Sec. 19-6-4. Improvements.

The final plat shall be accompanied by approved final plans and specifications of all streets, water, sewer and stormwater management systems, drawn to the specifications of the agency or agencies responsible for their approval and/or maintenance, and the location of any public wells required to be installed by this Chapter. If any property shown on the final plat is to be held in common by a property owners' association, the subdivider shall provide a copy of the articles of incorporation of the property owners' association and a copy of the declaration of covenants and restrictions addressing the ownership and maintenance of the property to be held in common. If any property shown on the final plat other than rights-of-way is to be conveyed to the county, including easements, the subdivider shall provide a deed of conveyance or deed of easement.

Sec. 19-6-5. Certificates.

The following certificates shall appear on the final plat, and shall be executed as appropriate:

> I hereby certify that, to the best of my knowledge and belief, all requirements of the Board of Supervisors and ordinances of Fluvanna County, Virginia, regarding the platting of subdivisions within the County, have been complied with. [to be signed, dated and sealed by surveyor or engineer]
>
> The platting and subdivision of [here insert a correct legal description of land subdivided, including magisterial district, source of title, and location of last instrument in the chain of title], containing [insert acreage] and designated [insert name of subdivision], is with the free consent and in accordance with the desires of the undersigned owners, proprietors and trustees, if any; that all streets shown on the plat are hereby irrevocably offered for dedication to public use; and that all lots are subject to certain covenants and restrictions dated [insert date] and recorded at [deed book and page] in the office of the Clerk of the Circuit Court of Fluvanna County, Virginia. [to be signed and dated by all owners]
>
> The subdivision shown hereon has been reviewed and approved by the undersigned in accordance with existing regulations, and may be committed to record. [to be signed and dated by the Subdivision Agent]

Sec. 19-6-6. Bonding.

At the time he submits the final plat, the subdivider shall either demonstrate that the improvements shown on the preliminary plat are complete, or shall provide a bond with surety in an amount and form acceptable to the county, to insure that the improvements are completed at the expense of the subdivider. Such bond shall comply, and shall be administered in accordance with, the provisions of sections 15.2-2241 through 15.2-2246 of the Code of Virginia.

Article 7. Subdivision Design Standards.

Sec. 19-7-1. Generally.

The subdivider and the county shall be mutually responsible for the orderly development of the land. Nothing herein shall be deemed to require the approval of any plat which the Subdivision Agent shall determine to be contrary to sound engineering or surveying practice or which shall constitute a danger to the public health, safety or general welfare. The Subdivision Agent shall review all subdivisions, and may require reasonable changes to the

design of such plats to ensure that the development is in conformity with the Comprehensive Plan, rationally designed, suitably adapted to the topography, efficient for the provision of utilities and services, coordinated with the future provision of capital improvements in the surrounding area, and has minimal negative impact on adjoining property. Their discretion shall be guided by the standards set forth in this article. (Ord. 8-1-12)

Sec. 19-7-2. Rural cluster subdivisions.

All subdividers shall strive to conserve the noteworthy features of the parcel to be subdivided and the rural landscape, in accordance with the Comprehensive Plan and the purpose of this chapter. To achieve these objectives, the subdivider shall follow the process set forth below in developing rural cluster subdivisions for the subdivision of a tract. All major subdivisions in the A-1 Agricultural General Zoning District Classification shall be Rural Cluster subdivisions and subject to this section.

(A) Determine the number of lots desired, not exceeding the number allowed to be subdivided from the tract under the density provisions of Chapter 22;

(B) Delineate areas of the tract to be conserved due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high value for continued agricultural or forestry production, high scenic value including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical**,** natural**,** or cultural features;

(C) Locate potential house sites on the area of the tract not delineated as conservation areas, with due consideration for topography, soil suitability for construction and septic system use, and efficient service by public or central water and/or sewerage systems, as applicable;

(D) Align streets to serve house sites, with due consideration for topography and connections to existing, planned or potential streets in adjacent areas, and align pedestrian trails if planned; and

(E) Delineate boundaries of individual residential lots and any residue, in accordance with the lot size, dimension, setback, and yard requirements of Chapter 22.
(Ord. 8-1-12)

Sec. 19-7-3. Rational design.

Lot sizes and shapes, block sizes and shapes, and street networks and alignments shall be designed in accordance with accepted planning practices to produce a rational and economical system without undue clearing or grading. (Ord. 8-1-12)

Sec. 19-7-4. Suitability to topography.

If the site contains floodplains, wetlands or slopes steeper than twenty percent (20%), the proposed development shall be designed to protect against such dangers as erosion, sedimentation, flooding, landslide or subsidence. (Ord. 8-1-12)

Sec. 19-7-5. Infrastructure.

All streets, water systems, sewer systems, storm drainage systems, solid waste collection systems, and other utilities and services shall be coordinated with the existing and planned systems in the surrounding area, and shall be designed and constructed so as to minimize the cost of operation and maintenance and so as to maximize the safety, convenience and efficiency thereof. All lots shall be designed to provide for safe and convenient vehicular access to public streets. Driveway locations, which shall conform to good engineering practice and, in particular, to the regulations of the Virginia Department of Transportation, shall be specified on the plat. (Ord. 8-1-12)

Sec. 19-7-5.1. Street layout.

The following requirements and standards of street layout shall apply:

(A) The subdivision street layout shall conform in all essential respects with any adopted small area plan and the transportation element and other aspects of the Comprehensive Plan. Proposed streets shall provide for the continuation of existing, planned or platted streets on adjacent tracts, unless such continuation shall be prevented by topography or other physical condition, or unless such extension is found by the Subdivision Agent to be unnecessary for the coordination of development between the subdivision and such adjacent tract.

(B) Where the subdivision abuts or contains an existing public road, the Subdivision Agent may require that measures be taken to reduce the impact of heavy traffic on the lots abutting or fronting upon such road, and to conserve the capacity of such road to serve through traffic, by one of the following means:

1) By providing vehicular access to such lots by means of a service drive separated from the existing public road by a planting strip and connecting therewith at infrequent intervals.

2) By designing reverse frontage lots having access only from a parallel minor street or from cul-de-sac or loop streets, and with vehicular access to such lots from the existing public road prohibited by deed restrictions or other means.

3) By increasing setbacks by not less than twenty-five percent (25%) for all structures and requiring the joint use of driveways.

The choice of the most appropriate method of accomplishing the desired purpose in a specific instance shall be made by the Subdivision Agent giving consideration to topography and other physical conditions, the character of existing and contemplated development in the subdivision and its surroundings, and other pertinent factors.

(C) Cul-de-sacs shall serve five or fewer (≤ 5) lots, and shall be connected to other streets by pedestrian paths.

(D) Intersections of streets shall be at an angle as nearly ninety (90) degrees as topography and good design will permit.

(E) Alleys may be provided in the rear of lots.

(F) Cross access easements may be provided for any commercial, multi-family, and industrial subdivision and shall meet the surfacing requirements of the proposed off-street parking as required by the type of use and development contemplated, in compliance with Chapter 22 of this Code. Any such easement is subject to the approval of the county attorney. (Ord. 8-1-12)

Sec. 19-7-5.2. Lot layout.

The lot arrangement, design and orientation shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development. All lots shall be designed to provide for safe and convenient vehicular access to public streets.

(A) Where lots must have direct access to an existing thoroughfare rather than an internal street, driveway locations shall conform to good engineering practice and, in particular, the regulations of the Virginia Department of Transportation. Joint access driveways shall be provided where practical. All restrictions regarding lot access and driveway location shall be specified on the plat.

If a tract is subdivided into fewer lots than the maximum allowed by its zoning classification, or the Comprehensive Plan designates the tract for a higher density of development than its present zoning classification allows, the Subdivision Agent may require the subdivider to arrange the lots so as to allow the opening of future streets and logical further subdivision.

(B) The dimensions and layout of lots reserved or planned for commercial, multi-family, and industrial purposes shall be adequate to provide for any off-street parking and service facilities required by the type of use and development contemplated, in compliance with Chapter 22 of this code. The Subdivision Agent may require the subdivider to demonstrate compliance by providing a schematic layout of the anticipated development of such lots.
(Ord. 8-1-12)

Sec. 19-7-5.3. Easements.

Where a proposed subdivision is traversed by any stream, water course or drainageway, or a drainageway is proposed, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, water courses, and drainageways. The Subdivision Agent may require permanent easements of appropriate width for poles, wires, conduits, storm and sanitary sewers, gas, water mains, and other public utilities, and temporary easements for the future construction thereof, along all lot lines and in other locations deemed necessary to adequately and efficiently serve all subdivision lots and the surrounding area. Such easements may be required for both existing and planned utilities. (Ord. 8-1-12)

Sec. 19-7-5.4. Lands designated for public or common ownership.

When the subdivider proposes to designate lands for public or common ownership, the following standards shall apply:

Where the proposed subdivision includes lands proposed for use as public parks, school sites, or public water or sewer provision under the Comprehensive Plan, the Subdivision Agent shall request the subdivider to indicate the location of such lands on the

subdivision plat. The Subdivider shall also provide the written agreement for the acquisition of the lands or facilities between the subdivider and the receiving agency. No public agency is compelled by this chapter to accept any proposed land or facilities.
(Ord. 8-1-12)

Sec. 19-7-6. Phasing.

If the subdivider desires to complete the improvements shown on the preliminary plat over a period of more than one year, he may submit a preliminary plat showing the entire development at completion, and delineating two or more (≥ 2) phases to be improved in succession, together with a schedule for completion of each phase. After such plat has been approved, he may construct the improvements in, and submit a final plat for, each phase, consistent with the approved schedule. Pursuant to the requirements of section 15.2-2241.A(5) of the Code of Virginia, if a developer records a final plat which is a section of a subdivision as shown on an approved preliminary plat, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five (5) years from the recordation date of the first section. (Ord. 8-1-12; Ord. 12-16-15)

Sec. 19-7-7. Noise, glare and pollution.

The proposed development shall be designed to minimize the impact of noise, glare and pollution on adjoining property, and to protect the surrounding lands from the same. (Ord. 8-1-12)

Sec. 19-7-7.1. Riparian protection areas.

To protect local water quality, all major subdivisions shall reserve a riparian protection area in accordance with the following requirements:

(A) The riparian protection area shall be at least fifty (50) feet wide along both sides of all intermittent streams, at least seventy-five (75) feet wide along both sides of all perennial streams, and at least 100 feet wide along both sides of the Hardware River, Rivanna River, and James River.

(B) Indigenous vegetation, including existing ground cover, shall be preserved to the maximum extent practicable, consistent with the use or development proposed. Dead, diseased, or dying vegetation may be pruned or removed as necessary, pursuant to sound horticultural practices. No logging or silvicultural activities may take place within the riparian protection area.

(C) No portion of any on-site sewerage system, drain field, reserve drain field, or building shall be placed within the riparian protection area. This statement shall be on all plats and site plans of affected lots.

(D) If otherwise authorized by the applicable regulations of this chapter, the following types of development shall be permitted within the riparian protection area, provided that the requirements of this section are met:

1) A building or structure which existed on the date of adoption of this article may continue at such location. However, nothing in this section authorizes the replacement, expansion, or enlargement of such building or structure.

2) On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:

a) To the extent practical, as determined by the agent, the location of such facilities shall be outside of the riparian protection area.

b) No more land shall be disturbed as necessary to provide for the construction and maintenance of the facility, as determined by the agent.

c) The facilities are designed to minimize impacts to the functional value of the riparian protection area and to protect water quality; and

d) Facilities located within a floodplain adhere to the floodplain regulations of the County Code.

3) Water-dependent facilities; water wells; passive recreation areas, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities, provided that all applicable federal, state and local permits are obtained. All pedestrian trails and bicycle paths shall be constructed using permeable paving materials.

a) Stream crossings of perennial and intermittent streams for roads, streets, or driveways, provided that the stream buffer disturbance shall be the minimum necessary for the lot(s) to be used and developed as permitted within the underlying zoning district. Stream crossings shall not disturb more than thirty (30) linear feet of stream for

driveways and sixty (60) linear feet for roads or streets, provided that the agent may allow additional length of stream disturbance where fill slopes or special conditions necessitate additional length.

(E) The Subdivision Agent may allow for a modification of the riparian protection area requirements by providing alternative measures for riparian protection, by means of substitution of materials, design, or technique, which the Subdivision Agent determines to provide the same or greater degree of riparian protection compared to such area requirements and is determined by the Subdivision Agent to be reasonably necessary to permit reasonable uses of the property which are otherwise permitted by law. A request for a modification shall be submitted and evaluated as follows:

1) At a minimum, a request for any modification shall include the following information:

a) A site map that includes the locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by a field survey;

b) A description of the shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;

c) A detailed site plan that shows the locations of all existing and proposed structures and impervious cover and the limits of all existing and proposed land disturbance. The exact area of the riparian protection area to be affected shall be accurately and clearly indicated;

d) Documentation of unusual hardship should the requirements be maintained;

e) At least one alternative plan, which meets the requirements of this section, or an explanation of why such a plan is not feasible;

f) A stormwater management plan, if applicable;

g) A calculation of the total area of intrusion into the riparian protection area; and

h) Proposed mitigation, if any, for an intrusion into the riparian protection area. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

1) The following factors will be considered by the Subdivision Agent in determining whether to issue a modification:

a) The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;

b) The locations of all streams and waterways on the property, including along property boundaries;

c) Whether alternative designs are possible which require less intrusion or no intrusion into the riparian protection area;

d) The long-term and construction water-quality impacts of the proposed modification; and

e) Whether allowance of the modification is at least as protective of natural resources and the environment, including local water quality.

(Ord. 8-1-12)

Sec. 19-7-8. Compliance with Chapter 22 of this Code.

No subdivision plat shall be approved unless and until it shall be determined that the same complies with Chapter 22 of this Code. Subdivisions that are prepared consistent with approved Master Plans as provided in Chapter 22 of this Code, shall be subject to the street and lot layout design and improvement standards provided for in that Master Plan. (Ord. 8-1-12)

Article 8. Required Improvements.

Sec. 19-8-1. Streets.[6]

An adequate system of streets shall be constructed to provide access from all lots to the state highway system.

[6] For state law as to streets in subdivisions, see Code of Va., § 15.2-2241.A.

(A) In any major subdivision, as defined herein, all streets shall be designed and constructed in conformance with the Virginia Department of Transportation's subdivision street requirements. Preliminary plans for all such streets shall have been approved by the Virginia Department of Transportation prior to approval of the preliminary plat.

(B) Proposed street names shall be shown on the preliminary plat, and may be changed by the Subdivision Agent. Names of new streets shall not duplicate names of existing streets, irrespective of suffixes. Any street that is a continuation of an existing street shall bear the name of the existing street. The governing body may institute a fee in order to acquire and install all street identification signs. Where a street is planned for future extension, and a stub street serving three or more (≥ 3) lots is proposed for construction as part of a subdivision, a temporary turnaround shall be provided on such stub street. Such turnaround shall be of adequate location, size and design as determined by the Subdivision Agent. All stub streets shall be marked with a metal sign clearly providing public notice that the street is subject to future extension.

(C) Any private road in a subdivision which will not be constructed to Virginia Department of Transportation standards shall be located in a right-of-way or easement at least fifty (50) feet in width and shall be so designed and built as to provide adequate access by ordinary passenger vehicles in all weather, in accordance with the provisions of this section as set forth hereinafter. All lots that are within a subdivision which is served by any private road shall be prohibited direct vehicular access from an existing public road by deed restriction or other means. Except in the case of lots intended, designed and used (a) for attached single-family, two-family or multi-family dwellings; (b) for rural cluster lots; or (c) for commercial or industrial uses, no lot served by a private road may be less than ten (10) acres in area, and no such private road shall serve more than five (5) lots. The plat, and each deed, shall clearly state that the county and Commonwealth are not responsible for the maintenance of the roads. A road maintenance agreement, approved by the county attorney and the Subdivision Agent, shall be filed with the deeds of all lots to be served by such private road. Such agreement shall require the landowners, jointly and severally, to cooperate in and pay for the maintenance of the road such that emergency vehicles and other necessary traffic can reach all of the lots with reasonable ease. Each plat showing any such private road shall contain a certification from a registered surveyor or engineer in substantially the following form: "The private road shown on this plat will provide reasonable access to all lots served by such road by emergency vehicles and ordinary passenger vehicles as required by Section 19-8-1 of the Fluvanna County Code." Private roads shall conform to the following minimum specific construction standards:

Number of Lots	Right-of-Way Width	Minimum Width of Travelway	Surface Treatment	Minimum Ditchline	Maximum Grade
1-5	50 feet	14 feet	Gravel (#25 or #26), 3 inches in depth over suitable base	4 feet in width, with a minimum of 4% slope from the travelway and ditches a minimum of 18 inches in depth	9%

(Ord. 11-17-04; Ord. 8-1-12; Ord. 12-16-15)

Sec. 19-8-2. Water supply.

The subdivider shall provide evidence satisfactory to the Subdivision Agent that each lot which is proposed to be created shall have available to it potable water sufficient in quantity and quality to provide for the uses to which such lot may lawfully be put. For any major subdivision, all phases included, one or more sources of water of acceptable quality and quantity shall be approved by the county prior to submittal of the preliminary plat. The water supply shall meet all applicable federal, state and local regulations and the Hydrogeologic Test Requirements. (Ord. 8-1-12)

Sec. 19-8-2.1. Hydrogeologic test requirements.

Prior to the approval of the preliminary plat, the subdivider shall provide evidence that the parcel proposed to be subdivided has sufficient supply of potable water to serve each of the proposed lots. In the case of a subdivision which is proposed to be served by either a public water system, a public service company or a central water supply, the subdivider shall demonstrate that the subdivision has a capacity equal to 1 gallon per minute for each proposed lot after a forty-eight (48) hour continuous constant rate test. (Ord. 3-15-06; Ord. 8-1-12)

Sec. 19-8-2.2. Quality.

Water quality shall comply with the requirements defined in the Virginia Department of Health Waterworks Regulations. (Ord. 8-1-12)

Sec. 19-8-2.3. Quantity.

If the proposed subdivision is to be served by individual groundwater wells, the

sufficiency of the quantity of water shall comply with the requirements of the Virginia Department of Health Private Well Regulations at the time that a certificate of occupancy is sought as to any occupied building on each lot. If any subdivision is to be served by an existing public or central water system, the subdivider shall obtain a certificate of availability from the operator of the water system. If it is to be served by a new public or central water system, the subdivider shall obtain the necessary permits from all applicable reviewing bodies, including, without limitation, the governing body, the State Corporation Commission, the Virginia Department of Health and the Virginia Water Control Board, and approval of the design and written commitment to operate and maintain the system from an agency approved by the county. (Ord. 6-21-06; Ord. 8-1-12)

Sec. 19-8-2.4. Fire protection.

The subdivider shall make reasonable provision for fire protection. For any subdivision with a public or central water system, the subdivider shall provide a fire protection system consisting of fire hydrants at intervals of no more than 1,000 feet served by water lines six inches or larger (≥ 6) in diameter, or a system of comparable effectiveness. Such plans shall be reviewed and approved by the Fluvanna County Fire Department Chief prior to preliminary plat approval. (Ord. 8-1-12)

Sec. 19-8-2.5. Maintenance.

Upon their completion and final approval, all water systems, other than those connected to a public system, shall be dedicated to an agency approved by the county for ownership, operation and maintenance. (Ord. 8-1-12)

Sec. 19-8-3. Wastewater treatment.

A wastewater collection, treatment and disposal system shall be provided to remove wastewater from the proposed development without undue threat of contamination of surface water or groundwater. Such preliminary plans shall have been approved by the Virginia Department of Environmental Quality (DEQ) or appropriate state agency prior to approval of the preliminary plat.

(A) If individual sewerage systems are proposed, the subdivider shall demonstrate that each lot which is proposed to be created complies with Section 22-17-10 of this Code.

(B) If a central sewerage system is proposed, the subdivider shall secure approval of the design, and written commitment to operate and maintain the system, from an agency

approved by the county, including any special use permit which is required pursuant to Chapter 22 of this Code, prior to approval of the preliminary plat.

(C) If a proposed system is subject to regulation by the any state agency, the subdivider shall secure the necessary permits prior to plat approval.
(Ord. 9-17-08; Ord. 8-1-12)

Sec. 19-8-3.1. Maintenance.

Upon their completion, all central sewerage systems, other than those connected to a public system, shall be dedicated to an agency approved by the county for ownership. (Ord. 8-1-12)

Sec. 19-8-4. Storm drainage.[7]

Proper and adequate storm drainage systems shall be installed as required by the Virginia Department of Transportation and/or Chapter 6: Erosion and Sedimentation Control of this Code, such that the proposed development will not result in undue increase in runoff, erosion or sedimentation to any downhill or downstream area. Such plans shall have been reviewed by the Soil and Water Conservation District office, and approved by the county and the Virginia Department of Transportation, as applicable, prior to the approval of the preliminary plat.

(A) Wherever required by the Virginia Department of Transportation, or under an approved Master Plan or Conditional Zoning provisions of Chapter 22, concrete curb and gutter shall be installed along both sides of street serving 200 or more lots, and on at least one side of every street serving fifty or more (≥ 50) lots, and an engineered storm drainage system shall be installed. The use of perforated curbs and cul-de-sacs with landscaped islands is permitted. All such improvements shall comply with Virginia Department of Transportation standards.

(B) Drainage easements of an appropriate width, not less than six (≥ 6) feet, shall be reserved where necessary, and shall be shown on the plat.

(C) All streets and building sites shall be at least one foot above the floodplain elevation.

[7] For state law as to storm drainage, see Code of Va., § 15.2-2241.A(3), (4).

(D) The use of low-impact development (LID) techniques to control stormwater runoff is encouraged. Examples of LID techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters designed to capture stormwater and facilitate on-site infiltration.
(Ord. 8-1-12; Ord. 12-16-15)

Sec. 19-8-5. Monuments.[8]

Iron rods or pipes shall be set at all lot corners and at all points of curvature or tangent on streets. Rods or pipes shall be at least one-half (1/2) inch in diameter and twenty-four (24) inches long, and shall be set flush with the finished grade. (Ord. 8-1-12; Ord. 12-16-15)

Sec. 19-8-6. Recreation.

For any major subdivision, as defined in this chapter, if the average lot size for that subdivision is five acres or less (≤ 5), except for Rural Cluster Subdivisions, the subdivider shall provide space and facilities for recreation. Such space shall be clearly labeled on the plat, and shall be dedicated to an entity approved by the county for ownership and maintenance.

(A) Space for recreation shall be provided at the rate of 5,000 square feet per lot in the subdivision or fifteen percent (15%) of the total acreage of the subdivision, whichever is more. This area shall not be developed for parking, roadways, refuse collection, or similar use. An area of one-half (½) acre or more shall be located within one-half (½) mile of each proposed dwelling unit as part of the recreation area, and shall be improved with facilities for sports, picnicking, tot lot equipment, active playground with equipment, or similar uses.

(B) Each area reserved for recreation shall be of a size and shape conducive to the proposed recreational use.
(Ord. 8-1-12)

Sec. 19-8-7. Utilities.[9]

For major and minor subdivisions, all utilities including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electric, telephone, gas, cable

[8] For state law as to monuments, see Code of Va., § 15.2-2241.A(7).

[9] For state law as to utilities, see Code of Va., § 15.2-2241.A(6).

television, or similar services shall be placed underground except, however, the following shall be permitted above ground.

(A) Electric transmission lines and facilities in excess of fifty (50) kilovolts.

(B) 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.

(C) Meters, service connections and similar equipment normally attached to the outside wall of a customer's premises.

(D) Temporary above ground facilities required in conjunction with an authorized construction project.

(E) Existing utilities located above ground in proposed subdivisions may be maintained, repaired or upgraded to maintain current levels of service.

(F) Whenever any existing above ground utilities internal to a major subdivision require relocation for any reason they shall be placed underground.
(Ord. 8-1-12; Ord. 12-16-15)

Sec. 19-8-8. Sidewalks.

For all major subdivisions within all zoning districts, sidewalks shall be provided along both sides of all proposed public roads and private roads with a sidewalk compliant with current VDOT standards.

Sidewalks shall also provide connections to active or passive open space, schools, or to adjacent commercial and residential developments.

Sidewalks may be paved using hard-surfaced pervious paving materials, such as porous asphalt, porous concrete, or block pavers, as a method of stormwater management, provided that the use of such materials does not compromise the safety of pedestrians.
(Ord. 5-4-11; Ord. 8-1-12)

Sec. 19-8-8.1. Sidewalk variation.

A variation to the sidewalk regulations may be granted by the Planning Commission for projects where:

(A) The Virginia Department of Transportation prohibits the construction of sidewalks;

(B) The physical conditions on the lot or adjoining lots, including but not limited to, existing structure and parking areas, existing utility easements, environmental features, or the size and shape of the lot, make it impossible or unfeasible to provide the required sidewalks;

(C) The application of the before mentioned requirements would not further the goals of the Comprehensive Plan or otherwise serve the greater public's health, safety, and welfare.

The applicant shall file a written request with the Department of Planning and Community Development stating why application of a sidewalk variation is necessary and how the before mentioned circumstances may apply to the property.

The Planning Commission shall act on the variation request in conjunction with the county's action on the site plan, subdivision plat or special use permit or, if no such action is required, within sixty (60) days of the date the application was submitted and determined to be complete. The Planning Commission may grant the variation if it determines that one or more applicable circumstances exist. In granting a variation, the Planning Commission may impose conditions deemed necessary to protect the public health, safety, or welfare.

The denial of a variation, or the approval of a variation with conditions objectionable to the applicant, may be appealed to the board of supervisors. In considering a variation on appeal, the board of supervisors may grant or deny the variation based upon its determination of whether one or more applicable circumstances exist, amend any condition imposed by the Planning Commission, or impose any conditions deemed necessary to protect the public health, safety, or welfare.
(Ord. 8-1-12)

Sec. 19-8-9. Street trees.

Street trees shall be required along existing or proposed public streets within or adjacent to any major subdivisions within an average lot site of one (1) acre or less. The placement of street trees shall be in accordance with Virginia Department of Transportation (VDOT) standards and shall not be located within any sight triangle. The required plantings

shall be located either within the right-of-way itself or within a ten-foot (10') strip continuous to such right-of-way. Existing trees within a caliper of eight inches (8") or greater located within ten feet (10') of the right-of-way may be used to satisfy the planting requirement, provided the trees are protected in accordance with the standards contained in the Virginia Erosion and Sediment Control Handbook. Appropriate provisions shall be made for the permanent maintenance and preservation of the required street trees, to the reasonable satisfaction of the county attorney. Such provisions may include a landscape easement dedicated to the property owners' association or other entity approved by the county attorney. The street trees shall be planted at the following rate:

(A) One (1) large shade tree shall be required for every fifty (50) feet of road frontage; or

(B) One (1) medium shade tree shall be required for every forty (40) feet of road frontage.
(Ord. 8-1-12)

Sec. 19-8-10. Landscape preservation buffers.

All reverse frontage lots within all zoning districts shall provide a landscape preservation buffer along all interstate, arterial and collector roads and all scenic byways, as designated by the Virginia Department of Transportation (VDOT).

(A) The minimum width of landscape preservation buffers shall be forty feet (40') measured from the edge of the existing or reserved right-of-way. Along all scenic byways, the landscaped buffer shall be no less than one-hundred feet (100') in width.

(B) Appropriate provisions shall be made for the permanent maintenance and preservation of the required landscape preservation buffers, to the reasonable satisfaction of the county attorney. Such provisions may include a landscape preservation easement dedicated to the property owners' association or other entity approved by the county attorney.

(C) The preservation of existing trees and shrubs within the required landscape preservation buffers shall be maximized to provide continuity and improved screening. All trees located within the buffer shall be retained, unless removal is necessary to accommodate utilities that run generally perpendicular to the buffer. Where necessary, the buffer shall be supplemented with a combination of trees and shrubs, both evergreen and deciduous. Berms constructed within the landscape preservation buffer shall be no taller than five feet (5') in height; have a slope no steeper than 2:1; disturb as little existing vegetation as possible; and have a non-linear, undulating form.

(D) Dead, diseased, or dying vegetation may be pruned or removed as necessary, pursuant to sound horticultural practices. No logging or silvicultural activities may take place within the landscape preservation buffer.

(E) Fences or walls may be constructed within the landscape preservation buffer, provided that such features are no taller than five feet (5') in height and are designed to be compatible with the rural nature of the surrounding area.

(F) Any plantings required by County Code may be located within the landscape preservation buffer.

(G) A modification to the requirements of this section may, at the written request of the applicant, may be granted with the approval of the Subdivision Agent in the following instances:

1) The application of the requirements set forth in this section, due to the size, shape, location, or topography of the property or other unusual conditions, would preclude a reasonable use of the lot;

2) A subdivision within a designated growth area meets new urban/neo-traditional planning principles and furthers the goals set forth within the Comprehensive Plan; or

3) Building elevations visible from public right-of-ways incorporate high-quality materials and architectural elements that complement the positive features of nearby development and/or historic structures in the area. Examples of high-quality materials include, but are not limited to, brick and stone for use on building facades, and cedar shingles, slate shingles, architectural-grade asphalt shingles, and standing-seam metal for roofs. Examples of high-quality architectural elements include, but are not limited to, dormers; masonry chimneys; porches; balconies; divided-light windows; window shutters; decorative trim and hardware.

(Ord. 8-1-12)

Article 9. Administration.

Sec. 19-9-1. Subdivision Agent.

The board of supervisors shall appoint an agent to administer this Chapter. Such agent shall have the power and duty to interpret this Chapter according to its literal terms, to review and approve plats subject to this Chapter, to carry out the ministerial functions prescribed herein, and to investigate alleged violations thereof. Approval or disapproval of a plat by the Subdivision Agent shall constitute approval or disapproval by the board of supervisors. Except as otherwise expressly provided by the board of supervisors, the Director of Planning and Development shall be deemed to be the Subdivision Agent.

Sec. 19-9-2. Exceptions.

Where a subdivider shows that the literal application of a provision of this Chapter to the unique conditions of a parcel of land would cause unnecessary hardship, and a departure from the literal terms hereof would alleviate such hardship while preserving the spirit of the Chapter, the Agent may approve such departure provided he gives written notice thereof, stating the justification for the departure.

Sec. 19-9-3. Appeal to board of supervisors.

Any person, firm or corporation aggrieved by any interpretation, decision or action of the Subdivision Agent may appeal such action to the board of supervisors by filing with the Subdivision Agent within ten (10) days of such action. The board of supervisors shall hear such appeal within sixty (60) days of filing, and may affirm, modify or reverse the Subdivision Agent's action. Any person, firm or corporation aggrieved by any such action by the board of supervisors may appeal to the Circuit Court by filing with the Clerk of the Circuit Court within thirty (30) days of such action.

Sec. 19-9-4. Appeal to Circuit Court.

Any person entitled by law thereto may appeal to the Circuit Court in accordance with the provisions of sections 15.2-2258 through 15.2-2261 of the Code of Virginia. No decision of the Subdivision Agent in the administration of this chapter shall be subject to appeal pursuant to this section unless such decision shall have been reviewed by the board of supervisors in accordance with Section 19-9-3[10] of this Chapter.

Sec. 19-9-5. Vacation of plats.

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[10] *Editor's note.* – The ordinance adopted 2-4-04 continues from the previous ordinance the reference to section 19-8-3. That section was amended and renumbered to 19-9-3 in the 2-4-04 ordinance. Accordingly, the editor has made this clerical correction in the text of the code.

The board of supervisors shall have the authority to vacate any plat subject to section 15.2-2271 et seq. of the Code of Virginia.

Sec. 19-9-6. Fees.

The following schedule of fees shall be applicable for subdivision submittals; provided, however, that, except as otherwise expressly provided by law, none of the fees provided for in this Chapter shall apply to any property owned by the County and used for County purposes.

Subdivisions	
Major	$1,000.00 plus $ 50.00 per lot(GIS Fee)
Minor	$500.00 plus $ 50.00 per lot(GIS Fee)
Family	$200.00 plus $ 50.00 per lot(GIS Fee)
Resubmission of Preliminary or Final Plat	$100.00
Subdivision Ordinance Exception	$300.00
Ordinance of Vacation	$225.00
Road Maintenance Agreement Reviews	$200.00
Revisions	$ 50.00
Dedication Common Lands Doc. Reviews	$200.00
Resubmissions	$ 50.00
Homeowner Association Document Review	$200.00
Resubmissions	$ 50.00
Health Department Subdivision Revisions	$250.00 plus $25.00 lot
Existing System Review	$ 50.00
Boundary Adjustment	$100.00
Physical Survey	$ 50.00

(Ord. 6-17-09; Ord. 8-17-16)

Chapter 20
TAXATION

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Sec. 20-4-7. Removal of parcels from program if taxes delinquent; notice to owner.
Sec. 20-4-8. Roll-back taxes generally.
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Repealed.

Article 8.1.

Repealed.

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Sec. 20-9-9. Effective date and duration of exemption.
Sec. 20-9-10. Treasurer to be furnished annual list of exemptions; contents of list.
Sec. 20-9-11. Exemption to be credited against real estate taxes.
Sec. 20-9-12. False claims for exemption.

Chapter 20
TAXATION

Article 1. In General.[1]

Sec. 20-1-1. Tangible personal property returns - - Filing required.

Every person owning tangible personal property which is subject to taxation by the county, other than motor vehicles, but specifically including business personal property, machinery and tools, shall file a return thereof, on forms prepared by the commissioner of the revenue, not later than February 1 in each year.[2] (Comp. 1974, ch. 23; Ord. 8-4-86; Ord. 10-19-94)

Sec. 20-1-1.1. Same - - Alternate method of filing for motor vehicles.

Every person owning a motor vehicle which is garaged in the county as of January 1 in each year shall file a personal property tax return with respect to each such motor vehicle on forms prescribed by the treasurer. Such form may include an application for county motor vehicle license. Such return shall be filed not later than April 15 in each year. (Comp. 1974, ch. 23; Ord. 8-4-86; Ord. 10-19-94)

Sec. 20-1-1.2. Same - - Continuation of personal property return filing practice.

Except as otherwise expressly provided by the ordinance from which sections 20-1-1 and 20-1-1.1 derive, the existing practice with respect to the filing of personal property returns is hereby continued.[3] (Comp. 1974, ch. 23; Ord. 8-4-86; Ord. 10-19-94)

Sec. 20-1-2. Real and personal property taxes - - Payable in semi-annual installments.[4]

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[1] For state law as to taxation generally, see Code of Va., Title 58.1.

[2] *Editor's note.* -- Prior to October 19, 1994, the tangible personal property return included merchant's capital. The tax on merchant's capital was repealed by ordinance adopted on that date.

[3] *Editor's note.* -- Section 3 of the ordinance adopted on October 19, 1994, repealed the penalty for failure to file timely personal property tax returns which was then in effect.

[4] For state law as to authority of county to establish due dates for the payment of local taxes, set penalties, interest, etc., see Code of Va., § 58.1-3916.

The taxes on real property and tangible personal property, but excluding public service real property, shall be due in equal installments not later than the close of business of the county treasurer's office, on June 5 and December 5 of the calendar year in which the levy is made.

When June 5 or December 5 falls on a nonworking day of the treasurer's office, the due date shall be extended to the next working day of the treasurer's office.
(Comp. 1974, ch. 23; Ord. 6-17-87)

Sec. 20-1-2.01. Same -- Appeals of real property assessments to board of equalization.[5]

All assessments of real property for taxation shall be subject to a right of appeal as otherwise provided by law. All applications for appeal to the board of equalization shall be made not less than thirty (30) days after the termination of the date set by the commissioner of revenue to hear objections to the assessments as provided in section 58.1-3330 of the Code of Virginia, but in no event later than June 1 next succeeding the notice of such assessment. All such applications for appeal shall be finally disposed of by the board of equalization not later than July 1 next succeeding. The commissioner of revenue shall cause all such deadlines to be clearly stated on the notice of assessment. (Ord. 10-18-00)

Sec. 20-1-2.1. Same - - Penalty for failure to pay on time.

Any taxpayer failing to pay real estate and tangible personal property taxes on June 5 or December 5 as applicable shall incur a penalty of ten percent (10%) of the tax past due, or, in the case of delinquent tangible personal property tax more than thirty (30) days past due, twenty-five percent (25%) of the tax past due on such tangible personal property, or ten dollars ($10) , whichever is greater, which shall be added to the amount of taxes or levies due from such taxpayer. (Comp. 1974, ch. 23; Ord. 6-17-87; Ord. 10-21-98)

Sec. 20-1-2.2. Same - - Interest on delinquent taxes; overpayments due to taxes erroneously assessed.

The taxpayer shall pay interest on delinquent taxes at a rate of ten percent (10%) per annum. Interest shall commence on the first day of the month following the month in which such installment is due. Interest at the same rate shall be paid to the taxpayer on overpayments due to erroneously assessed taxes. (Comp. 1974, ch. 23; Ord. 6-17-87; Ord. 7-21-99)

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[5] For state law as to sittings of board of equalization, see Code of Va., § 58.1-3378.

Sec. 20-1-3. Fees assessed against persons chargeable with delinquent taxes or other delinquent charges.[6]

There shall be assessed against every person chargeable with delinquent taxes or other delinquent charges fees to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall be in an amount equal to twenty percent (20%) of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest, and shall not exceed thirty dollars ($30) for taxes or other charges collected subsequent to the filing of a warrant or other appropriate legal document but prior to judgment, and thirty-five ($35) dollars for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be $150 or twenty-five percent (25%) of the cost, whichever is less; however, in no event shall the fee be less than twenty-five dollars ($25).

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under section 58.1-3980 of the Code of Virginia, so long as the appeal is filed within ninety (90) days of the date of the assessment, and for thirty (30) days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill which has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.[7]
(Comp. 1974, ch. 7; Ord. 6-3-85; Ord. 7-19-00; Ord. 11-18-15)

Sec. 20-1-4. Recordation tax.[8]

The board of supervisors does hereby impose a county recordation tax in an amount equal to one-third of the amount of the state recordation tax collectable for the state on the first recordation of each taxable instrument; provided, that no tax shall be imposed under this

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[6] For state law as to authority of county to impose a fee on delinquent taxpayers to cover administrative costs, etc., see Code of Va., § 58.1-3958.

[7] The July 19, 2000 amendments to Section 20-1-3 became effective as of their adoption on July 19, 2000.

[8] For state law as to authority of county to impose a recordation tax, see Code of Va., § 58.1-814. As to county recordation tax generally, see Code of Va., § 58.1-3800 et seq.

section upon any instrument in which the state recordation tax is fifty cents specifically; and, provided further, that where a deed or other instrument conveys, covers or is related to property located partly in this county and partly in another county or city, or in the counties or cities, the tax imposed under the authority of this section shall be computed only with respect to the property located in this county.

The clerk of the circuit court collecting the tax imposed under this section shall pay the same in to the treasurer of the county. For his services in collecting the tax imposed by this section, the clerk shall be compensated in the amount of five percent (5%) of the tax upon each instrument taxable under this section recorded in his office. Such compensation shall be paid out of the county treasury. (Min. Bk. 6, p. 503; Comp. 1974, ch. 23)

Sec. 20-1-5. Treasurer authorized to approve and issue certain tax refunds.

The treasurer is hereby authorized to approve and issue any refund of taxes pursuant to section 58.1-3981 of the Code of Virginia, up to $2500; provided, however, that no such refund shall be approved or issued except upon the certificate of the commissioner of revenue, with consent of the county attorney, that such refund is owing as the result of an erroneous assessment. The treasurer shall report each such refund to the board of supervisors not later than the last day of the month in which such refund is issued. (Ord. 8-21-96)

Sec. 20-1-6. Service charge levied on real property owned by the Commonwealth.[9]

(A) Notwithstanding the provisions of section 58.1-3400 of the Code of Virginia, a service charge is hereby levied on real property owned by the Commonwealth within the county. For purposes of this section "real property owned by the Commonwealth" shall not include hospitals, educational institutions or public roadways or property held for the future construction of public highways. In accordance with section 58.1-3403.A of the Code of Virginia, before this service charge is levied, the commissioner of revenue must publish and list all exempt real estate in the land books of the county in the same manner as taxable real estate is published and listed.

(B) The service charge shall be based on the assessed value of the state-owned tax exempt real estate and the amount which the county expended, in the year preceding the year in which such charge is assessed, for the purpose of furnishing police and fire protection and for collection and disposal of refuse. Any amount received from federal or state grants specifically designated for the above-mentioned purposes and assistance provided to localities

[9] For county's authority to levy service charge on real property owned by the Commonwealth, see Code of Va., § 58.1-3403.

pursuant to section 9.1-166 of the Code of Virginia shall not be considered in determining the cost of providing such services for the real estate. The expenditures for services not provided for certain real estate shall not be considered in the calculation of the service charge for such real estate, nor shall such expenditures be considered when a service is currently funded by another service charge.

(C) The service charge rate for state-owned property shall be determined by dividing the expenditures determined pursuant to subsection (B) of this section by the assessed fair market value, expressed in hundred dollars, of all real estate located within the County, including nontaxable property. The resulting rate shall then be applied to the assessed value of the tax exempt property owned by the Commonwealth. Real estate owned by the United States government or any of its instrumentalities, shall not be included in the assessed value of all property within the county, city or town. For purposes of this section, artistic and historical significance shall not be taken into account in the valuation of exempt real estate.

(D) In no event shall the service charge rate exceed the real estate tax rate of the county, city or town imposing the service charge.

(E) The commissioner of revenue shall annually calculate the service charge imposed hereby and shall certify such calculations to the treasurer on or before May 1 in each year. The treasurer shall bill the Commonwealth for, and shall collect, such service charge on the same due dates and in the same manner as are applicable to real estate taxes.

(F) That the county administrator be, and he is hereby, directed to notify in writing the Governor and each state agency affected by the enactment hereof at least twelve (12) months prior to the effective date of this ordinance.

(G) That this ordinance shall be effective January 1, 1999 such that such levy shall have effect for the tax year 1999.
(Ord. 11-19-97; Ord. 11-18-15)

Article 1.1. Personal Property Tax Relief.

Sec. 20-1.1-1. Purpose; definitions; relation to other ordinances.

(A) The purpose of this Article is to provide for the implementation of the changes to PPTRA effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(B) Terms used in this Article that have defined meanings set forth in PPTRA shall have the same meanings as set forth in section 58.1-3523 of the Code of Virginia, as amended.

(C) To the extent that the provisions of this Article conflict with any prior ordinance or provision of this Code, this Article shall control.

Sec. 20-1.1-2. Method of computing and reflecting tax relief.

(A) For tax years commencing in 2006, the county adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

(B) The Board shall, by resolution, set the percentage of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the county by the Commonwealth.

(C) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

Sec. 20-1.1-3. Allocation of relief among taxpayers.

(A) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the county's annual budget relating to PPTRA relief.

(B) Relief shall be allocated in such as manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of $1,000 or less.

(C) Relief with respect to qualifying vehicles with assessed values of more than $1,000 shall be provided at a percentage, annually fixed and applied to the first $20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The percentage shall be established annually as a part of the adopted budget for the county.

Sec. 20-1.1-4. Transitional provisions.

(A) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the County Treasurer is authorized to issue a supplemental personal property tax bill, in the amount of one hundred percent (100%) of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

(B) Penalty and interest with respect to bills issued pursuant to subsection (A) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in Article 1 of this Chapter from the original due date of the tax.

Article 2. Sales Tax.[10]

Sec. 20-2-1. General retail sales tax levied.

Pursuant to section 58.1-605 of the Code of Virginia, a local general retail sales tax at the rate of one percent (1%) to provide revenue for the general fund for the county, is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by chapter 6 of Title 58.1 of the Code of Virginia. It shall be subject to all provisions of chapter 6 of Title 58.1 of the Code of Virginia, all the amendments thereto, and the rules and regulations published with respect thereto. (Min. Bk. 6, p. 207; Comp. 1974, ch. 23)

Sec. 20-2-2. Administration and collection.

Pursuant to section 58.1-605 of the Code of Virginia, the local general retail sales tax levied pursuant to 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 the Code of Virginia. (Min. Bk. 6, p. 207; Comp. 1974, ch. 23; Ord. 11-18-15)

Article 3. Real Estate Tax Exemptions for Certain Elderly and Disabled Persons.[11]

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[10] For state law as to the Virginia Retail Sales and Use Tax Act, see Code of Va., § 58.1-600 et seq.

[11] The amendment and reenactment of this article adopted 12-19-07 has an effective date of January 1, 2008. The amendment and reenactment of this article adopted December 15, 2004 had an effective date of January 1, 2005. For state law as to authority of county to provide for

Sec. 20-3-1. Purpose of article.

It is hereby declared to be the purpose of this article to provide real estate tax exemptions for qualified property owners who are at least sixty-five years of age or who are permanently and totally disabled and who are otherwise eligible according to the terms of this article. Pursuant to the authority of section 58.1-3210 et seq. of the Code of Virginia, the board of supervisors finds and declares that persons qualifying for exemption hereunder are bearing an extraordinary real estate tax burden in relation to their income and financial worth. (Comp. 1974, ch. 23; Ord. 4-15-81; Ord. 11-2-92; Min. Bk. 11, p. 28; Ord. 6-20-01; Ord. 12-15-04; Ord 12-19-07; Ord. 11-18-15)

Sec. 20-3-2. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless another meaning shall clearly appear from the context:

Affidavit shall mean the real estate tax exemption affidavit.

Commissioner of revenue shall mean the commissioner of revenue of the county or any of his duly authorized deputies or agents.

Dwelling shall mean the sole residence of the person claiming exemption.

Exemption shall mean the percentage exemption from the real property tax imposed by the county allowable under the provisions of this article.

Permanently and totally disabled shall mean 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 last for the duration of such person's life.[12]

Property shall mean real property.

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the exemption or deferral of taxes on property of certain elderly and disabled persons, see Code of Va., § 58.1-3210 et seq.

[12] For state law defining permanently and totally disabled, see Code of Va., § 58.1-3217.

Relative shall mean any relation by blood or marriage to the person claiming exemption.

Taxable year shall mean the calendar year, from January 1 through December 31, for which such real property tax is imposed or exemption claimed.
(Comp. 1974, ch. 23; Ord. 4-15-81; Ord. 11-2-92; Min. Bk. 11, p. 28; Ord. 6-20-01; Ord. 12-15-04; Ord 12-19-07; Ord. 11-18-15)

Sec. 20-3-3. Requirements for exemption.[13]

Exemption pursuant to this article shall be granted to persons and for property complying with the following provisions:

(A) The title to the property for which exemption is claimed is held, or partially held, by the person claiming such exemption, as of January 1 of the taxable year for which the exemption is claimed.

(B) The dwelling for which the exemption is claimed is occupied as the sole dwelling of such claimant.

(C) The head of household claiming such exemption (1) is sixty-five years of age, or older as of December 31 of the year immediately preceding the taxable year for which the exemption is claimed, or (2) is determined to be permanently and totally disabled as of December 31 of the year immediately preceding the taxable year.

(D) The gross combined income from all sources of such claimant owner of such dwelling living therein, except as provided in section 58.1-3212(ii) of the Code of Virginia, the income of those relatives, if any, living in the dwelling and providing bona fide caregiving services to the owner, whether such relatives are compensated or not, shall not be calculated as part of the gross combined income, and of their relatives living in such dwelling, for the immediately preceding calendar year does not exceed a sum of fifty thousand dollars ($50,000); provided, however, that the first twelve thousand five hundred dollars ($12,500) of income for each relative other than spouse, or such claimant owners, who is living in such dwelling shall not be included in such total.

(E) The net combined financial worth of the claimant owners and of the spouse of any owner as of December 31 of the year immediately preceding the taxable year for which the exemption is claimed does not exceed one hundred sixty thousand dollars ($160,000). Net

[13] For state law authorizing the county to provide this exemption, see Code of Va., § 58.1-3210 et seq.

combined financial worth shall include the value of all assets, including equitable interests, but exclusive of the fair market value of the dwelling for which the exemption is claimed, the household furnishings therein, and of the land, not exceeding five (5) acres, upon which the dwelling is situated.
(Comp. 1974, ch. 23; Ord. 4-15-81; Ord. 11-2-92; Min. Bk. 11, p. 28; Ord. 5-21-97; Ord. 6-20-01; Ord. 12-15-04; Ord 12-19-07; Ord. 11-18-15)

Sec. 20-3-3.1. Absence from residence.[14]

The fact that persons who are otherwise qualified for tax exemption or deferral by an ordinance promulgated pursuant to this Chapter are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental health care for extended periods of time shall not be construed to mean that the real estate for which the tax exemption or deferral is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration. (Ord. 11-18-15)

Sec. 20-3-4. Procedure for claiming and granting exemption.[15]

(A) Annually, and before April 1 of the taxable year, the person claiming an exemption shall file a real estate tax exemption affidavit with the county commissioner of revenue.

(B) The affidavit shall set forth, in a manner prescribed on a form furnished by the commissioner of revenue:

(1) the name of the owner and the names of all related persons occupying the dwelling for which such exemption is claimed,

(2) the gross combined income of the claimant owner and of their relatives living in such dwelling, other than relatives living in the dwelling that provide bona fide caregiving services to the claimant owner, whether compensated or not, and

(3) the total combined net worth of the claimant owners and of the spouse of any owner.

[14] For state law reference, see Code of Va., § 58.1-3214.

[15] For state law as to application for exemption, see Code of Va., § 58.1-3213.

(C) If such person claiming the exemption is under sixty-five years of age, such affidavit shall have attached thereto a certification by the social security administration, the veteran's administration, or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in this state or two medical doctors who 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 20-3-2 of this Chapter. The affidavit of at least one of such doctors shall be based upon a physical examination of such person. The affidavit of one 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 20-3-2.

However, a certification pursuant to 42 U.S.C. § 423(d) by the social security administration shall be deemed to satisfy the requirement for a certification that the claimant is permanently and totally disabled, as defined in Section 20-3-2 of this Chapter, so long as the person remains eligible for such social security benefits.

(D) If, after audit and investigation, the commissioner of revenue determines that the person is qualified for exemption, he shall so certify to the treasurer of the county who shall deduct the amount of the exemption from the claimant's real estate tax liability for the taxable year in question.
(Comp. 1974, ch. 23; Ord. 4-15-81; Ord. 11-2-92; Min. Bk. 11, p. 28; Ord. 6-20-01; Ord. 12-15-04; Ord 12-19-07; Ord. 11-18-15)

Sec. 20-3-4.1. Notice of real estate tax exemptions for certain elderly and disabled persons.[16]

The county treasurer shall enclose written notice in each real estate tax bill of the terms and conditions of this article and shall make other reasonable efforts as necessary to notify residents of the county of the real estate exemption in this Article. (Ord. 11-18-15)

Sec. 20-3-5. Amount of exemption.

The amount of the exemption granted pursuant to this article shall be a percentage of the real estate tax assessed on the parcel which includes the dwelling for the applicable taxable year in accordance with the following scale:

[16] For state law reference, see Code of Va., § 58.1-3213.

NET COMBINED FINANCIAL WORTH

Gross Household Income	$0 to $40,000	$40,001 to $80,000	$80,001 to $120,000	$120,001 to $160,000
$0 to $12,500	100%	75%	50%	25%
$12,501 to $25,000	75%	57%	39%	20%
$25,000 to $37,500	50%	39%	27%	15%
$37,500 to $50,000	25%	15%	10%	5%

(Comp. 1974, ch. 23; Ord. 4-15-81; Ord. 11-2-92; Min. Bk. 11, p. 28; Ord. 5-21-97; Ord. 6-17-98; Ord. 6-20-01; Ord. 12-15-04; Ord 12-19-07)

Sec. 20-3-6. Effect of change of status.[17]

Changes with respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit provided for by this article is filed and having the effect of exceeding or violating the limitations and the conditions provided in this article shall nullify any relief of real estate tax liability for the then current taxable year and the taxable year immediately following. (Comp. 1974, ch. 23; Ord. 4-15-81; Ord. 11-2-92; Min. Bk. 11, p. 28; Ord. 6-20-01; Ord. 12-15-04; Ord 12-19-07; Ord. 11-18-15)

Article 3.1. Real Estate Tax Exemptions for Certain Surviving Spouses of Members of Armed Forces Killed in Action.

Sec. 20-3.1.1. Real estate tax exemptions for certain surviving spouses of members of armed forces killed in action.

Pursuant to section 58.1-3219.9 of the Code of Virginia, as amended, surviving spouses of a member of the armed forces of the United States killed in action are exempt from real estate taxation on the dwelling of the surviving spouse's principal residence. If the value of the dwelling of the principal residence is in excess of the average assessed value of dwellings in the county situated on property zoned as single family residential, then the portion of the value in excess of such average assessed value shall be subject to taxation. (Ord. 11-18-15)

[17] For state law as to the effect of change of status, see Code of Va., § 58.1-3215.

Article 4. Special Assessments for Agricultural, Horticultural, Forest and Open Space Real Estate.[18]

Sec. 20-4-1. Statement of purpose; authority.

The board of supervisors hereby finds and declares that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within the boundaries of the county is in the public interest, in order to:

(A) Assure a readily available source of agricultural, horticultural, and forest products and of open spaces within reach of concentrations of populations

(B) Conserve natural resources in forms which will prevent erosion;

(C) Protect adequate and safe water supplies;

(D) Preserve scenic natural beauty and open spaces;

(E) Promote proper land use planning and the orderly development of real estate for the accommodation of an expanding population; and

(F) Promote a balanced economy and ameliorate pressures which force the conversion of such real estate to more intensive uses.

Such real estate shall be taxed in accordance with the provisions of article 4 of chapter 32 of Title 58.1 of the Code of Virginia, and of this article.
(Comp. 1974, ch. 23; Ord. eff. 1-1-78)

Sec. 20-4-2. Special classifications established and defined.[19]

For the purposes of this article, the following special classifications of real estate are established and defined:

(A) *Real estate devoted to agricultural use* shall mean real estate devoted to the

[18] For state law as to special assessments for land preservation, see Code of Va., § 58.1-3230 et seq.

[19] For state law reference, see Code of Va., § 58.1-3230.

bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the commissioner of agriculture and consumer services or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the commissioner. In order to qualify under the provisions of this article, a tract shall consist of a minimum of five (5) acres, excluding any dwelling site and the two (2) acres surrounding the dwelling.

(B) *Real estate devoted to horticultural use* shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery and floral products under uniform standards prescribed by the commissioner of agriculture and consumer services; or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the commissioner. In order to qualify under the provisions of this article, a tract shall consist of a minimum of five (5) acres, excluding any dwelling site and the two (2) acres surrounding the dwelling.

(C) *Real estate devoted to forest use* shall mean land, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the state forester pursuant to the authority set out in section 58.1-3240 of the Code of Virginia. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the state forester pursuant to the authority set out in section 58.1-3240 of the Code of Virginia. In order to qualify under the provisions of this article, a tract shall consist of a minimum of twenty (20) acres, excluding any dwelling site and the two (2) acres surrounding the dwelling.

(D) *Real estate devoted to open-space use* shall mean real estate so used as to be provided or preserved for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, or assist in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land use plan, under uniform standards prescribed by the director of the department

of conservation and recreation pursuant to the authority set out in section 58.1-3240 of the Code of Virginia, and in this article. In order to qualify under the provisions of this article, a tract shall consist of a minimum of ten (10) acres, excluding any dwelling site and the two (2) acres surrounding the dwelling.

(E) The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. For purposes of this section, properties separated only by a public right-of-way are considered contiguous.[20]

(F) For the purpose of determining whether real estate qualifies as a special classification as defined hereinabove, prior, discontinued use of property shall not be considered in determining its current use.

(G) Real property that has been designated as devoted to a special classification use, as defined hereinabove, shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or as otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or as otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to a special classification use. In determining whether real property is devoted to a special classification use, zoning designations and special use permits for the property shall not be the sole considerations.
(Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 11-18-15)

Sec. 20-4-3. Applications generally; fee.[21]

(A) The owner of any real estate meeting the criteria of one or more of the special classifications of real estate as defined in Section 20-4-2 of this Chapter may, on or before November 1 of each year, apply to the commissioner of revenue of the county 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 of the Code of

[20] For state law reference, see Code of Va., § 58.1-3233.

[21] For state law reference, see Code of Va., § 58.1-3234.

Virginia. In any year in which a general reassessment is being made, such application may be submitted until thirty (30) days have elapsed after notice of increase in assessment is mailed in accordance with section 58.1-3330 of the Code of Virginia. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of revenue of the county and shall include such additional schedules, photographs, and drawings as may be required by the commissioner of revenue. An application fee of twenty-five dollars plus ten cents per acre for each acre included in the tract at issue shall accompany the application; however, no application fee may be required 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.

(B) A separate application shall be filed for each parcel on the land book; provided, that when applications are submitted by one owner for contiguous parcels, only one application fee shall be required.

(C) Applications required by subsection (A) hereof may be filed within no more than sixty (60) days after the filing deadline specified herein, upon the payment of a late filing fee of fifty dollars ($50), and upon a showing that the failure to file the application with the time provided in subsection (A) was occasioned by reasons beyond the control of the applicant.
(Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 12-15-04; Ord. 11-18-15).

Sec. 20-4-4. Determination of eligibility and value of property.

Promptly upon receipt of any application under this article, the commissioner of revenue shall determine whether the subject property meets the criteria for taxation under this article in accordance with sections 58.1-3233 and 58.1-3236 of the Code of Virginia. If the commissioner of revenue determines 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. In determining whether the subject property meets the criteria set forth in Section 20-4-2 of this Chapter, the commissioner of revenue may request an opinion, as provided by section 58.1-3233.1 of the Code of Virginia, from the director of the department of conservation and recreation, the state forester or the commissioner of agriculture and consumer services. (Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 11-18-15)

Sec. 20-4-5. Recordation of property values in land book.

The use value and the 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 for the use value. (Comp. 1974, ch. 23; Ord. eff. 1-1-78)

Sec. 20-4-6. Material misstatements of fact; delinquent taxes at time of application.[22]

In the event of a material misstatement of facts in the application filed pursuant to this article or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of fair market value as applied to other real estate in the taxing jurisdiction. No application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this article. (Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 11-18-15)

Sec. 20-4-7. Removal of parcels from program if taxes delinquent; notice to owner.[23]

If on April 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this article are delinquent, the treasurer shall forthwith send notice of that fact and the general provisions of this section to the property owner by first-class mail. If, after the notice has been sent, such delinquent taxes remain unpaid on June 1, the treasurer shall notify the commissioner of the revenue who shall remove such parcel from the land use program. (Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 11-18-15)

Sec. 20-4-8. Roll-back taxes generally.[24]

(A) When real estate qualifies for assessment and taxation on basis of use under this article, and the use by which it qualified changes, to a nonqualifying use, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars ($10).

(B) The roll-back tax shall be equal to the sum of the deferred tax for each of the five (5) most recent complete tax years including simple interest on such roll-back taxes at a rate equal to that applicable to delinquent taxes for each of the tax years. The deferred tax for

[22] For state law reference, see Code of Va., § 58.1-3234.

[23] For state law reference, see Code of Va., § 58.1-3235.

[24] For state law reference, see Code of Va., § 58.1-3237.

each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value.

(C) Liability to the roll-back taxes shall attach when a change in use occurs but not when a change in ownership of the title takes place if the new owner continues the real estate in the use for which it is classified under the conditions prescribed in this article. The owner of any real estate rezoned as provided in subsection (D) of this section, or liable for roll-back taxes shall, within sixty (60) days following such change in use or zoning, report such change to the commissioner of revenue on such forms as may be prescribed. The commissioner 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 and shall be paid to the treasurer within thirty (30) days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with sections 58.1-3915 and 58.1-3916 of the Code of Virginia.

(D) Real property rezoned to a more intensive use, at the request of the owner or his agent, shall be subject to the roll-back tax at the time the zoning is changed. Real property rezoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be subject to the roll-back tax at the time the qualifying use is changed to a nonqualifying use. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article; provided, that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural or open space, it shall be eligible for consideration for assessment and taxation under this article only after three (3) years have passed since the rezoning was effective.
(Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 11-18-15)

Sec. 20-4-9. Failure to report change in use; misstatements in applications.[25]

(A) Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for an additional penalty equal to ten percent (10%) of the

[25] For state law reference, see Code of Va., § 58.1-3238.

amount of the roll-back tax and interest, which penalty shall be collected as part of the tax. In addition to such penalty, there shall hereby be imposed interest of one-half per centum of the amount of the roll-back tax, interest and penalty for each month, or fraction thereof, during which failure continues.

(B) 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 had been assessed on the basis of fair market value as applied to other real estate in the county, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall further be assessed with an additional penalty of one hundred per centum (100%) of such unpaid taxes.

For purposes of this Section and Section 20-4-6, incorrect information on the following subjects will be considered material misstatements of fact:

(1) The number and identities of the known owners of the property at the time of application;

(2) The actual use of the property.

The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misrepresentation of fact for the purposes of this Section and of Section 20-4-6.
(Comp. 1974, ch. 23; Ord. eff. 1-1-78; Ord. 11-18-15)

Sec. 20-4-10. Applicability of state law.

The provisions of Title 58.1 of the 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. (Comp. 1974, ch. 23; Ord. eff. 1-1-78)

Article 5. Consumer Utility Taxes.[26]

Sec. 20-5-1. Definitions.

[26] For state law as to county consumer utility taxes generally, see Code of Va., § 58.1-3814 et seq.

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group shall have the same meaning ascribed to it in section 58.1-3703(C)(10) of the Code of Virginia, except, for purposes of this article, the word "entity" shall be substituted for the word "corporation" whenever it is used in that section.

Bad debts means any portion of a debt related to a sale of local telecommunication services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that portion during the reporting period in which the payment is made.

Consumer means a person who, individually or through agents, employees, officers, representatives, or permittees, makes a taxable purchase of local services taxable pursuant to this article.

Electric supplier means any corporation, cooperative, partnership or other business entity providing electric service.

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

Kilowatt hours delivered shall mean in the case of eligible customer-generators, as defined in section 56-594 of the Code of Virginia, as amended, those kilowatt hours supplied from the electric grid to such customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such customer-generators.

Local telephone service, subject to the exclusions stated in this section, includes any service subject to federal taxation as local telephone service as that term is defined in Section 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute.

Provider means service provider and/or billing service provider, as appropriate to the context.

Provider of billing services[27] means the person who bills a consumer for electric services rendered. If both the service provider and another person separately and directly bill

[27] *Editor's note:* The ordinance as adopted 10-19-05 contained a duplication of the definition of "provider of billing services". This clerical error has been corrected by deleting the second

a consumer for electricity service, then the service provider shall be considered the "provider of billing services."

Service provider means, as appropriate to the context, every person who delivers electricity to the consumer and/or every gas utility.
(Ord. 7-19-95; Ord. 10-18-00; Ord. 10-19-05; Ord. 11-18-15)

Sec. 20-5-2. Tax levied.

(A) Subject to the limitation contained in Section 20-5-9 of this Chapter, there is hereby imposed and levied on the consumers of the utility service or services provided within the county by any gas utility or electric supplier a tax calculated as set forth hereinafter. The taxes levied under this section shall be deemed to be local consumer utility taxes adopted pursuant to the Code of Virginia and shall be in addition to any taxes imposed directly by the Code of Virginia.

(B) The tax levied pursuant to this section shall be calculated on a monthly basis according to the following rates:

(i) Repealed.

(ii) Electricity provided by electric suppliers

(a) For residential customers -- a minimum tax of $1.40, plus $0.017138 per kilowatt hour delivered monthly, up to a maximum tax of $3.00;

(b) For non-residential customers -- a minimum tax of $2.00, plus $0.018088 per kilowatt hour delivered monthly, up to a maximum tax of $3.00;

(iii) Natural gas provided by gas utilities

(a) For residential customers -- a minimum tax of $2.45, plus $0.18670 per hundred cubic feet monthly service, up to a maximum tax of $3.00;

(b) For non-residential customers -- a minimum tax of $3.00, plus $0.015566 per hundred cubic feet monthly service.
(Ord. 7-19-95; Ord. 10-18-00; Ord. 10-19-05; Ord. 11-18-15)

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occurrence of the definition.

Sec. 20-5-3. Exemptions.

The tax imposed by this article shall not apply to the United States; the Commonwealth of Virginia and its political subdivisions, agencies, boards, commissions and authorities; any public safety answering point as defined in section 58.1-3813.1 of the Code of Virginia; utility sales of products used as motor vehicle fuels; nor, as to the tax levied on natural gas utility service, to consumers served by a gas utility owned or operated by the County. (Ord. 7-19-95; Ord. 10-18-00; 10-19-05)

Sec. 20-5-4. Computation where provider collects periodically.

In all cases where the provider of billing services or service provider, as applicable, collects the price for services periodically, the tax imposed and levied by this article may be computed on the aggregate amount of purchases during such period; provided, that the amount of tax to be collected shall be the nearest whole cent to the amount computed. (Ord. 7-19-95; Ord. 10-18-00; 10-19-05)

Sec. 20-5-5. Duty of provider to collect and purchaser to pay.

It shall be the duty of every provider of billing services or service provider, as applicable, in acting as the tax collecting medium or agency for the county, to collect from the purchaser for the use of the county the tax imposed and levied by this article at the time of collecting the purchase price charged for such service. It shall be the duty of every purchaser to pay the tax at such time. (Ord. 7-19-95; Ord. 10-18-00; Ord. 10-19-05)

Sec. 20-5-6. Repealed.
(Ord. 7-19-95; Ord. 10-18-00; 10-19-05; Ord. 11-18-15)

Sec. 20-5-6.1. Repealed.
(Ord. 10-19-05; Ord. 11-18-15)

Sec. 20-5-6.2. Repealed.
(Ord. 10-19-05; Ord. 11-18-15)

Sec. 20-5-7. Duty of provider to report and remit; electric and gas utility services.

A provider of billing services shall bill the tax to all users who are subject to the tax and to whom it bills for electricity service, and shall remit such tax monthly to the county in accordance with section 58.1-2901 of the Code of Virginia, as amended, respectively. A

service provider shall bill the tax to all users who are subject to the tax and to whom it delivers gas, and shall remit such tax monthly to the county in accordance with section 58.1-2905 of the Code of Virginia, as amended. Providers of billing services and service providers are referred to hereinafter collectively as "provider". Until the consumer pays the tax to the provider, the tax shall constitute a debt to the county. If any consumer receives and pays for electricity or gas but refuses to pay the tax on the bill that is imposed by the county, the provider shall notify the county of the name and address of such consumer. If any consumer fails to pay a bill issued by a provider, including the tax imposed by the county as stated thereon, the provider shall follow its normal collection procedures with respect to the charge for electric or gas service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for electric or gas service and the tax and (ii) remit the tax portion to the county. After the consumer pays the tax to the provider, the taxes shall be deemed to be held in trust by such provider until remitted to the county. (Ord. 10-19-05)

Sec. 20-5-8. Provider's records.

Each provider of billing services or service provider, as applicable, shall keep complete records showing all purchases in the county, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof, the date of payment thereof and the amount of tax imposed under this article. Such records shall be kept open for inspection by the duly authorized agents of the county at reasonable times, and the duly authorized agents of the county shall have the right, power and authority to make transcripts thereof. (Ord. 7-19-95; Ord. 10-18-00; Ord. 10-19-05)

Sec. 20-5-9. Tax not applicable within limits of certain towns.

As to the tax imposed and levied on consumers of services provided by electric suppliers, and gas utilities, the tax imposed and levied by this article shall not apply within the limits of any incorporated town located within the county which town imposes a town tax authorized by section 58.1-3814 of the Code of Virginia, as amended, provided that such town (i) provides police or fire protection, and water or sewer services, provided, that any such town served by a sanitary district or service authority providing water or sewer services or served by the county in which the town is located when such service or services are provided pursuant to an agreement between the town and county shall be deemed to be providing such water and sewer services itself, or (ii) constitutes a special school district and is operated as a special school district under a town school board of three members appointed by the town council. (Ord. 7-19-95; Ord. 10-18-00; 10-19-05; Ord. 11-18-15)

Sec. 20-5-10. Effective date of tax.

As to the tax imposed and levied by this article on consumers of services provided by electric suppliers and gas utilities, the tax imposed and levied by this article, or any change in such tax or structure already in existence, shall be effective sixty (60) days subsequent to written notice by certified mail from the county to the registered agent of the service provider and the provider of billing services that is required to collect the tax. (Ord. 7-19-95; Ord. 10-18-00; Ord. 10-19-05; Ord. 11-18-15)

Article 6. Probate Tax.[28]

Sec. 20-6-1. Levied; amount.

There is hereby imposed and levied a tax on the probate of every will or grant of administration in an amount equal to one-third of the state tax on such probate of a will or grant of administration.

Sec. 20-6-2. Collection; compensation of clerk.

The tax imposed by this article shall be collected by the clerk of the circuit court. The clerk shall pay such tax into the treasury of the county and shall be entitled to compensation for such service in an amount equal to five percent (5%) of the amount collected and remitted. Such compensation shall be paid out of the county treasury.

Sec. 20-6-3. Tax is additional.

The tax provided for by this article shall be in addition to any other taxes and assessments prescribed by law.

Article 7. Utilities License Tax.[29]

Sec. 20-7-1. Levy of tax.

For each and every year, beginning on January 1 and ending on the following December 31, until otherwise changed, there is hereby levied upon any telephone or telegraph

[28] For state law as to county tax on wills and administrations, see Code of Va., § 58.1-3805 et seq.; for state law as to authority of the county to impose probate tax, see Code of Va., § 58.1-1718.

[29] For state law as to authority of county to impose a license tax on certain public service corporations, see Code of Va., § 58.1-3731 et seq.

company, as defined by chapter 26 of Title 58.1 of the Code of Virginia, and upon every corporation providing heat, light and power within the county, as defined by chapter 26 of Title 58.1 of the Code of Virginia, for the privilege of doing business within the county, a license tax equal to one-half of one per cent of the gross receipts derived from such business in the county. (Comp. 1974, ch. 23; Ord. 12-7-81)

Sec. 20-7-2. Gross receipts - - Defined.

For the purposes of this article, the term "gross receipts" shall mean the gross receipts derived from business within the county included in the total gross receipts utilized by the state corporation commission in making assessments under section 58.1-2633 of the Code of Virginia. (Comp. 1974, ch. 23; Ord. 12-7-81)

Sec. 20-7-3. Same - - When ascertained; basis of tax.

Gross receipts as defined in this article shall be ascertained as of December 31 of each year, and the tax for the current calendar year shall be based on receipts for the preceding calendar year. (Comp. 1974, ch. 23; Ord. 12-7-81)

Sec. 20-7-4. When tax assessed.

The tax due under this article shall be assessed on January 1 of each calendar year. (Comp. 1974, ch. 23; Ord. 12-7-81)

Sec. 20-7-5. When tax due and payable.

The tax assessed under this article shall be due and payable to the treasurer of the county on or before June 1 following the date on which the taxes are assessed. (Comp. 1974, ch. 23; Ord. 12-7-81)

Sec. 20-7-6. Penalty for late payment.

Any person failing to pay the taxes provided for by this article into the county treasury within the time herein prescribed shall incur a penalty thereon as provided by section 58.1-3915 of the Code of Virginia, and interest thereon, as provided by section 58.1-3918 of the Code of Virginia. (Comp. 1974, ch. 23; Ord. 12-7-81)

Article 8. Repealed.

Article 8.1. Repealed.

(Ord. 4-16-03; Ord. 11-18-15)

Article 9. Solar Energy Equipment, Facilities and Devices.[30]

Sec. 20-9-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certified solar energy equipment, facilities or devices means any property, including real or personal property, equipment, facilities or devices, excluding any such property that is exempt under section 58.1-3660 of the Code of Virginia, certified by the building official to be designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric heat. (Ord. 10-20-04; Ord. 11-18-15)

Sec. 20-9-2. Exemption Granted.

Certified solar energy equipment, facilities and devices are hereby declared to be a separate class of property and shall constitute a classification for taxation separate from other classifications of real or personal property. Owners of real estate in Fluvanna County to which is attached certified solar energy equipment, facilities or devices are hereby granted an exemption from taxation on such certified solar energy equipment, facilities or devices, subject to the limitations and conditions prescribed by this article and by state law. (Ord. 10-20-04)

Sec. 20-9-3. Administration.

The exemption provided by this division shall be administered by the building official, the commissioner of revenue, and the treasurer. Such officials are hereby authorized and directed to adopt and enforce such reasonable rules and regulations, not in conflict with the provisions of this article, as may be reasonably necessary to determine the value of qualifying solar energy equipment, facilities or devices including, without limitation, requiring the production of documents and the furnishing of answers under oath. (Ord. 10-20-04)

Sec. 20-9-4. Requirements.

[30] For state law as to authority of county to exempt solar energy equipment, facilities or devices from certain taxes, see Code of Va., § 58.1-3661.

The exemption provided by this division shall be granted to applicants meeting the following requirements:

(A) The title to the property for which exemption is claimed is held by the person claiming the exemption.

(B) The building official has determined, after such solar energy equipment, facilities or devices have been installed and upon inspection thereof, that the subject property performs at least one of the functions set forth in Article 20-9-1 of this Code and that it has been installed in conformity with the Virginia Uniform Statewide Building Code and conforms to the requirements set by the regulations of the state board of housing and community development.
(Ord. 10-20-04; Ord. 11-18-15)

Sec. 20-9-4.1. Application generally.

(A) The person claiming an exemption under this article for solar energy equipment, facilities or devices shall file an application with the building official on forms provided for that purpose.

(B) The application shall be accompanied by a complete set of plans and specifications of the solar energy equipment, facilities or devices for which exemption is claimed. The application shall also be accompanied by sworn statements of contractors or suppliers attesting to the cost of the purchase and installation of the solar energy equipment, facilities or devices for which exemption is sought.
(Ord. 10-20-04; Ord. 11-18-15)

Sec. 20-9-5. Appeals from decisions of the building official.

Any person aggrieved by a decision of the building official may appeal such decision to the State Technical Review Board, which may affirm or reverse such decision. (Ord. 10-20-04)

Sec. 20-9-6. Approval and certification of application.

If after receipt of a completed application under this division and an inspection of the subject solar energy equipment, facilities or devices, the building official determines that the requirements for exemption have been met, he shall approve and certify the application and

transmit the same to the Department of Housing and Community Development. (Ord. 10-20-04)

Sec. 20-9-7. Determination of value by commissioner of revenue.

Upon receipt of a certificate from the Department of Housing and Community Development, the commissioner of revenue shall proceed to establish the value of qualifying solar energy equipment, facilities or devices to be exempted from taxation in accordance with the provisions of section 58.1-3661 of the Code of Virginia. (Ord. 10-20-04)

Sec. 20-9-8. Presumption as to value.

For purposes of the administration of this division, and for no other purposes, the value of certified solar equipment, facilities or devices qualifying for exemption shall be presumed to be not less than the normal cost of purchasing and installing such equipment, facilities or devices. (Ord. 10-20-04)

Sec. 20-9-9. Effective date and duration of exemption.

The exemption determined by the commissioner of revenue as provided in this article shall be effective beginning the first day of the tax year next succeeding the certification by the building official and shall remain in effect for such tax year and the following five (5) tax years, in accordance with section 58.1-3661 of the Code of Virginia. (Ord. 10-20-04; Ord. 11-18-15)

Sec. 20-9-10. Treasurer to be furnished annual list of exemptions; contents of list.

Annually on or before April 30 in each tax year, the commissioner of revenue shall furnish to the treasurer a list of all exemptions effective as of the beginning of such tax year. Such list shall show the value of each applicable exemption, multiplied by the tax rate established for the year in question and extended to show the amount of the real estate tax on each such property to be exempted in each year. (Ord. 10-20-04)

Sec. 20-9-11. Exemption to be credited against real estate taxes.

The treasurer shall credit the amounts certified by the commissioner of revenue under Section 20-9-1 of this Code against the total real estate taxes shown on the land book for the tax year in question and shall indicate the amount of each such exemption as a credit on the tax tickets of each qualifying property. (Ord. 10-20-04)

Sec. 20-9-12. False claims for exemption.

(A) It shall be unlawful for any person falsely to claim an exemption under this division or knowingly to make a false statement in connection with any application for such an exemption.

(B) A violation of this section shall be punished in accordance with Section 1-10 of this Code.
(Ord. 10-20-04)

Chapter 21
WATER AND SEWAGE DISPOSAL

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SUBARTICLE VIII. WASTEWATER SERVICE, CHARGES AND INDUSTRIAL COST RECOVERY.

Sec. 21-4-44. Wastewater service charges.
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Sec. 21-4-46. Determination of system use.

SUBARTICLE IX. ENFORCEMENT.

Sec. 21-4-47. Harmful discharges.
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Chapter 21
WATER AND SEWAGE DISPOSAL

Article 1. In General.[1]

Sec. 21-1-1. Approved method of disposal of human excrement required.

It shall be unlawful for the owner of any house used for human habitation, or other place where human beings congregate or are employed in the county to use or occupy, or to rent or lease the same for the use or occupancy by any person unless and until such house or building shall have been supplied or equipped with an approved method of disposal of human excrement of such construction as will comply with the requirements of this chapter. (Comp. 1974, ch. 12)

Sec. 21-1-2. Systems not covered by chapter.

Before construction is begun on any sewage disposal system not specifically covered by this chapter, the plan therefor shall be presented to the state health department for approval and for submission to the state water control board, if that agency's approval is required. (Comp. 1974, ch. 12)

Sec. 21-1-3. Misuse or neglect of toilets, etc.

It shall be unlawful for any owner or any tenant or lessee of any premises properly supplied with a sanitary privy or flush toilet or other approved device for the disposal of human excrement to misuse or neglect the same, so as to allow or cause it to cease to be sanitary. (Min. Bk. 5, pp. 95-96, 144; Min. Bk. 7, p. 277; Comp. 1974, ch. 12)

Sec. 21-1-4. Notice to correct violations.

If upon any inspection, the health officer or his authorized agent shall find any violation of this chapter or the provisions of any permit issued under it, he shall direct the person to whom the permit was issued by written notice to make the necessary corrections within such reasonable time as shall be specified therein. (Min. Bk. 5, pp. 95-96, 144; Min. Bk. 7, p. 277; Comp. 1974, ch. 12)

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[1] For power of localities as to public utilities generally, see Code of Va., § 15.2-2109 et seq.; as to environmental health services generally, see Code of Va., § 32.1-163 et seq.

Sec. 21-1-5. Permit required for onsite sewage disposal system.[2]

(A) In addition to any permit required by the Virginia Department of Health for the installation of any onsite sewage disposal system pursuant to section 32.1-164 of the Code of Virginia, the owner of each property in the county shall obtain a county permit from Fluvanna County prior to the construction, installation, modification or operation of a sewerage system or an alternative discharging on-site sewerage system for which a permit is required pursuant to the said section 32.1-164. Such county permit issued by Fluvanna County shall be issued jointly with, and upon the same terms as, the permit issued by the Commonwealth.

(B) The applicant for a County permit hereunder shall pay to Fluvanna County a fee of SEVENTY-FIVE DOLLARS ($75.00).

(C) Any applicant who shall be exempt from the payment of fees for the issuance of a permit for such system by the Virginia Department of Health shall likewise be exempt from the payment of any fee hereunder. Any applicant denied a construction permit based upon the regulations of the Virginia Department of Health governing such construction and eligible for refund of the state application fee shall be eligible for refund of the County application fee upon the same terms.
(Ord. 1-21-98; Ord. 11-18-15)

Sec. 21-1-6. Permit required for private water wells.[3]

(A) In addition to any permit required by the Virginia Department of Health for the construction of any private water well pursuant to section 32.1-176.4 of the Code of Virginia, the owner of each property in the county shall obtain a county permit from Fluvanna County prior to the construction of any private water well for which a permit is required pursuant to the said section 32.1-176.4. Such county permit issued by Fluvanna County shall be issued jointly with, and upon the same terms as, the permit issued by the Commonwealth.

(B) The applicant for a county permit hereunder shall pay to Fluvanna County a fee of FORTY DOLLARS ($40.00).

(C) Any applicant who shall be exempt from the payment of fees for the issuance

[2] For county's authority to regulate septic systems, see Code of Va., § 15.2-2157.

[3] For county's authority to adopt regulations to prevent pollution of water, see Code of Va., § 15.2-1200. For county's authority to charge reasonable fees for issuance of permits, see Code of Va., § 32.1-164.

of a permit for such system by the Virginia Department of Health shall likewise be exempt from the payment of any fee hereunder. Any applicant denied a construction permit based upon the regulations of the Virginia Department of Health governing such construction and eligible for refund of the state application fee shall be eligible for refund of the county application fee upon the same terms.
(Ord. 1-21-98; Ord. 11-18-15)

Article 2. Cross-connections and Backflow Prevention.

Sec. 21-2-1. State regulations adopted.

The board of supervisors hereby adopts by reference the regulations of the Virginia Department of Health, 12VAC5-590-10 et seq. regarding waterworks. (Comp. 1974, ch. 12; Ord. 11-18-15)

Sec. 21-2-2. Definitions.

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

Air gap separation. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture or other device and the rim of the receptacle.

Auxiliary water system. Any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from another purveyor's waterworks; or water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute a water source or system over which the water purveyor does not have control.

Backflow. The flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases, nonpotable waters into any part of a waterworks.

Backflow prevention device. Any approved device, method or type of construction intended to prevent backflow into a waterworks.

Consumer. Any person who drinks water from a waterworks.

Consumer's water system. Any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

Contamination. Any introduction into pure water of microorganisms, wastes, wastewater, undesirable chemicals or gases.

Cross-connection. Any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard. This is a term derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks

Double gate-double check valve assembly. An approved assembly composed of two (2) single, independently acting check valves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.

Health hazard. Any condition, device or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

Interchangeable connection. An arrangement or device that will allow alternate but not simultaneous use of two sources of water.

Pollution. The presence of any foreign substance (chemical, physical, radiological or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution hazard. A condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Process fluids. Any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted which could constitute a health, pollutional, or system hazard if introduced into the waterworks. This includes, but is not limited to:

(1) Polluted or contaminated waters;

(2) Process waters;

(3) Used waters originating from the waterworks which may have deteriorated in sanitary quality;

(4) Cooling waters;

(5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems;

(6) Chemicals in solution or suspension; and

(7) Oils, gases, acids, alkalis, and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

Pure water. Water fit for human consumption that is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts and adequate in quantity and quality for the minimum health requirement of the persons served.[4]

Reduced pressure principle backflow prevention device. A device containing a minimum of two (2) independently acting check valves together with an automatically operated pressure differential relief valve located between the two (2) check valves. During normal flow and at the cessation of normal flow, the pressure between these two (2) checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices shall be of the approved type.

Service connection. The point of delivery of water to a customer's building service line as follows:

(1) If a meter is installed, the service connection is the downstream side of the meter;

(2) If a meter is not installed, the service connection is the point of connection to the waterworks;

(3) When the water purveyor is also the building owner, the service connection is the entry point to the building.

System hazard. A condition posing an actual, or threat of, damage to the physical properties of the waterworks or a consumer's water system.

[4] For state law reference, see Code of Va., § 32.1-167.

Used water. Any water supplied by a water purveyor from the waterworks to a consumer's water system after it has passed through the service connection.

Water purveyor. An individual, group of individuals, partnership, firm, association, institution. corporation, municipal corporation, county or authority which supplies water to any person in this county from or by means of any waterworks.

Waterworks. A system that serves piped water for human consumption to at least fifteen (15) service connections or twenty-five (25) or more individuals for at least sixty (60) days out of the year. All structures, equipment and appurtenances used in connection with the collection, storage, purification, treatment and distribution of pure water, except the piping and fixtures inside the building where such water is delivered.
(Comp. 1974, ch. 12; Ord. 11-18-15)

Sec. 21-2-3. Inspections.

It shall be the duty of the board of supervisors to cause inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections, and reinspection, based on potential health hazards involved, shall be established by the Fork Union sanitary district in the cross-connection control and backflow prevention program and as approved by the state department of health. (Comp. 1974, ch. 12)

Sec. 21-2-4. Right of entry of district representative; refusal of access or information deemed evidence of cross-connection.

The representative of the Fork Union sanitary district shall have the right to enter at any reasonable time properties served by a connection to the waterworks of the Fork Union sanitary district for the purpose of inspecting the piping system or systems for cross-connections. Upon request, the owner, or occupants, of property served shall furnish to the inspection agency pertinent information regarding the piping systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connection. (Comp. 1974, ch. 12)

Sec. 21-2-5. Denial or discontinuance of service; protection of waterworks.

The water purveyor may deny or discontinue water service to a consumer if the required backflow prevention device is not installed. If it is found that the device has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the

waterworks is lowered below 10 psi gauge, the purveyor shall take positive action to insure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with the state waterworks regulations and to the satisfaction of the purveyor. (Comp. 1974, ch. 12)

Sec. 21-2-6. Protection of pure water; unsafe outlets to be labeled.

The pure water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this Article and the county plumbing code. Any water outlet which could be used for domestic purposes and is not supplied by the pure water system shall be labeled as "Water Unsafe for Drinking" in a conspicuous manner. (Comp. 1974, ch. 12; Ord. 11-18-15)

Sec. 21-2-7. Article supplementary to plumbing codes.

This Article is a supplement to the applicable plumbing codes. (Comp. 1974, ch. 12)

Article 3. Land Application of Biosolids.[5]

Sec. 21-3-1. Definitions.

The board of supervisors hereby adopts by reference section 25-32-10, Definitions, of Volume 9 of the Virginia Administrative Code.

Each and every reference herein to any statute or regulation shall be deemed to refer to the same, or to any successor statute or regulation which addresses substantially the same subject matter, as the same may be amended from time to time.
(Ord. 03-15-06; Ord. 11-18-15)

Sec. 21-3-2. General requirements for land application of biosolids.[6]

(A) It shall be unlawful to dispose of sewage sludge on land located in the county except in accordance with federal and state law, and this Article 21-3.

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[5] For state law authorizing county regulation of land application of biosolids, see Code of Va., § 62.1-44.16 et seq.

[6] For similar state law provision, see Code of Va., § 62.1-44:15.

(B) Biosolids may be land applied only to lands of the county that have met all the applicable federal and state permits for the land application of biosolids, including Virginia State Water Control Board permits required for such land applications.

(C) Biosolids may be land applied only to lands zoned A-1.

(D) Biosolids may be land applied only to lands during weather conditions that permit the same to be applied and incorporated without substantial risk of adverse consequences to adjacent and downstream properties.
(Ord. 03-15-06; Ord. 11-18-15)

Sec. 21-3-3. Notice requirements.

(A) Any applicant to the Virginia State Water Control Board for an operational permit to land apply biosolids to any lands of the county shall notify the Planning Director of his intent to obtain such permit no more than three (3) days after application to the Virginia State Water Control Board for such permit and at least one hundred (100) days before the time of the proposed land application. Such notification shall be in writing and hand delivered or faxed (with the original mailed on the same day) to the Planning Director.

(B) The notice required by (A) shall include:

(1) A field map of the lands to which biosolids will be applied, such maps to include the applicable county tax map number;

(2) A written statement of when the land application will begin, how long the process is estimated to continue, and when the land application of biosolids will terminate. If circumstances cause commencement of the land application of biosolids activity to take place more than five (5) days after the date indicated, the Planning Director shall be so notified promptly in writing;

(3) The date biosolids will be incorporated (if applicable);

(4) The proposed plant schedule, or designation as a pasture;

(5) The name, telephone number and address of the hauler, if different from the contractor;

(6) The telephone number and pager number (if available) of field technicians who will be land applying the biosolids;

(7) The source of the biosolids to be land applied, including name, address, and telephone number of the contact person;

(8) The name, address, and telephone number of the owner and/or lessee of the land to which the biosolids will be applied; and

(9) Any other information required by 9 Virginia Administrative Code 25-32-60 and 25-37-70.

(C) Any person who obtains from the Virginia State Water Control Board an operational permit to land apply biosolids to any lands of the county shall notify the Planning Director of the issuance of such permit no more than three (3) days after issuance and at least fourteen (14) days before the time of the proposed land application. Such notification shall be in writing and hand delivered or faxed (with the original mailed on the same day) to the Planning Director.

(D) The notice required by (C) shall include any amendments, variances, or other changes from the information submitted under (A).

(E) Fourteen (14) days before beginning the land application of biosolids to county land in accordance with a properly issued operational permit and with the requirements of this article, the permit holder shall deliver notice to all abutting properties, at the addresses listed therefore on the tax records of the county, and shall post signs at all field entrances which front public roads or, if no field entrances front public roads, on the owner's public road frontage nearest to the land applications site. The required notice and signs shall contain the following information only:

(1) A heading that reads "Biosolids Land Application in Progress";

(2) The name of the permit holder;

(3) The telephone number of an individual designated by the permit holder to respond to complaints and inquiries;

(4) Contact information for the Virginia State Water Control Board, including a telephone number for complaints and inquiries.

(F) Signs posted under (E) shall comply with the Fluvanna County Zoning Ordinance. Specifically, the signs shall be temporary nonilluminated signs, not less than four

(4) square feet and no more than six (6) square feet in area, providing notice of biosolid waste product application onto lands in Fluvanna County.

(G) Any holder of an operational permit to land apply biosolids to county lands shall notify the Planning Director of any modifications to the operational permit not more than three (3) days after such modification.

(H) Any holder of an operational permit to land apply biosolids to county lands shall provide to the Planning Director, at his request, the results of any tests conducted pursuant to the operational plan.

(I) Upon posting the signs at a land application site prior to commencing land application, the permittee shall deliver or cause to delivered written notification to the Planning Director, unless advised in writing that notification is not required, of the posting of the signs. The permit holder shall make a good faith effort to replace or repair any sign that has been removed from a land application site or that has been damaged so as to render any of its required information illegible prior to five (5) business days after completion of land application.

(J) The permit holder shall not remove the signs until at least thirty (30) days after land application has been completed at the site.

(K) No more than twenty-four (24) hours prior to commencing land application activities, including delivery of biosolids to a permitted site, the permittee shall notify in writing the Planning Director unless the Planning Director requests in writing not to receive the notice. This notification shall include identification of the biosolids source and shall include only sites where land application activities will commence within twenty-four (24) hours or where biosolids will be staged within twenty-four (24) hours.
(Ord. 03-15-06; Ord. 11-18-15)

Sec. 21-3-3.1. Board certification for storage of sewage sludge.

Pursuant to section 62.1-44.19:3 of the Code of Virginia, the board of supervisors shall review any application for a permit or variance to authorize the storage of sewage sludge and confirm or deny that the storage site is consistent with all applicable ordinances within thirty (30) days of receiving the request for certification.

If the board fails to respond to the request for certification within thirty (30) days of receipt of the request, the site shall be deemed consistent.

Where there may be site-specific conditions, including soil type, identified during the permit application process, which may require special conditions to protect the environment or health, safety or welfare of persons residing in the vicinity of a proposed land application site, the board may from time to time provide written requests or recommendations to the Department of Environmental Quality in its certification.
(Ord. 11-18-15)

Sec. 21-3-4. Access.

(A) The Planning Director shall have access to any county lands designated for the land application of biosolids in an operational permit in order to conduct appropriate inspections and testing to ensure compliance with the operational permit, state laws and regulations and the requirements of this Article. The Planning Director shall have access to all biosolids, biosolids storage facilities, biosolids application machinery and biosolids transportation vehicles in the county in order to conduct appropriate inspections to ensure compliance with any operational or construction permits, state laws and regulations and the requirements of this Article.

(B) The Planning Director shall notify the owner or permit holder of any inspections or testing conducted. If the Planning Director provides notice in advance of such inspection or testing, access shall be provided by the owner or permit holder no more than twenty-four (24) hours after notice is given.
(Ord. 03-15-06)

Sec. 21-3-5. Enforcement.[7]

(A) If the Planning Director has reason to believe that biosolids are being or have been land applied to county lands not in compliance with a valid operational permit, state laws and regulations or the requirements of this Article, he shall notify the Department of Environmental Quality and the permit holder. He shall further have the authority to order the abatement of any violation. Such abatement order shall identify the activity constituting the violation, specify the Code provision or regulation violated by the activity, and order the activity cease immediately, as authorized by sections 62.1-44.19:3 and 62.1-44.19:3.2.

(B) If the Planning Director has reason to believe that biosolids are being or have been land applied to county lands not in compliance with a valid operational permit or state laws and regulations, he shall so notify the Virginia State Water Control Board.

[7] For state regulations, see 9VAC25-31-475 and 9VAC25-32-515.

(C) Failure to comply with provisions 21-3-3(A), (C), (E), (G), (H), (I), (J) or (K) of this Code shall be punishable in accordance with Section 1-10 of this Code. In addition, the Planning Director shall have the authority to take action to abate any violation of this Article as authorized by sections 62.1-44.16:1 and 62.1-44.19:3.2 of the Code of Virginia.

(D) If the Planning Director receives a complaint concerning land application of biosolids, he shall notify the State Water Control Board and the permit holder within twenty-four (24) hours of receiving the complaint.

(E) The Planning Director shall promptly notify the State Water Control Board of all results from the testing and monitoring of the land application of biosolids performed by persons employed by Fluvanna County and any violation of sections 62.1-44.19:3, 62.1-44.19:3.1 and 62.1-44.19:3.3.
(Ord. 03-15-06; Ord. 11-18-15)

Article 4. Public Sewer.

SUBARTICLE I. GENERAL PROVISIONS.

Sec. 21-4-1. Purpose.[8]

The purpose of this Article is to provide for the maximum possible beneficial public use of the Fluvanna County treatment works through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable distribution of the costs of the treatment works; and to provide procedures for complying with the requirements contained herein. (Ord. 6-20-07; Ord. 11-18-15)

Sec. 21-4-2. Scope.

(A) The definitions of terms used in this Article are found in Subarticle II. The provisions of this Article shall apply to the discharge of all wastewater to treatment works of Fluvanna County. This Article provides for use of the county's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this Article.

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[8] As to the county's authority regarding public sewer, see Code of Va., § 15.2-2122. As to state law regarding public sewer, see Code of Va., § 62.1-44.2 et seq.

(B) This Article shall apply to Fluvanna County and to persons outside the county who are, by contract, permit or agreement with the county, users of Fluvanna County's treatment works.
(Ord. 6-20-07)

Sec. 21-4-3. Administration.

Except as otherwise provided herein, the county administrator or his designee shall administer, implement, and enforce the provisions of this Article. (Ord. 6-20-07)

Sec. 21-4-4. Fees and charges.

(A) All fees and charges payable under the provisions of this Article shall be paid to Fluvanna County. Such fees and charges shall be as set forth herein or as established in the latest edition of the Fluvanna County Treatment Works User Charge Schedule.

(B) All user fees, penalties and charges collected under this Article (and the treatment works user charge schedule) shall be used for the sole purpose of constructing, operating or maintaining the treatment works of Fluvanna County, or the retirement of debt incurred for same.

(C) All fees and charges payable under the provisions of this Article are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the Fluvanna County Treatment Works User Charge Schedule.
(Ord. 6-20-07)

Sec. 21-4-5. Inspections.

(A) The Manager or authorized state or federal officials, bearing the proper credentials and identification, shall have the right to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this Article.

(B) The Manager, bearing proper credentials and identification, shall be permitted to enter all private property through which the county holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the county's treatment works lying within the easement. All entry, and any subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.

(C) While performing any necessary work on private properties referred to in Subsections (A) and (B) above, the Manager shall observe all safety and occupational rules

established by law and shall make a reasonable effort to accommodate the operations and practices of the owner or occupant of the property and applicable to the premises. (Ord. 6-20-07)

Sec. 21-4-6. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the county's treatment works. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as for a Class 4 misdemeanor. (Ord. 6-20-07)

Sec. 21-4-7. Severability.

If any part, section, subsection, sentence, clause or phrase of this Article or its application to any persons or circumstances is for any reason held to be unconstitutional or invalid by the final judgment of a court of competent jurisdiction, such decision shall not affect the constitutionality or validity of the remainder of this Article or other applications thereof. (Ord. 6-20-07)

Sec. 21-4-8. Amendments of this Article.

This Article may be amended, as provided by general law, from time to time. (Ord. 6-20-07)

SUBARTICLE II. DEFINITIONS.

Sec. 21-4-9. Specific terms.[9]

In the interpretation and construction of this Article, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the board of supervisors or the context clearly requires otherwise:

Act means the Federal Clean Water Act, 33 U.S.C. 1251 et seq., as the same shall be amended from time to time.

Approval Authority means the Director of the Department of Environmental Quality ("DEQ").

ASTM means the American Society for Testing and Materials.

[9] For state regulations, see 9VAC25-31-10.

Authorized Representative of Industrial User means:

(1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; or

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or

(3) A duly authorized representative of the individual designated in #1 or #2, above, if such representative is responsible for the overall operation of the facility from which the discharge to the Publicly Owned Treatment Works (POTW) originates. The authorization must be submitted to the Manager prior to or together with any reports to be signed by the authorized representative.

BOD (denoting Biochemical Oxygen Demand) means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C, expressed in milligrams per liter.

Building Sewer means the extension from a building wastewater plumbing facility to the treatment works.

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(a) & 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

Combined Sewer means a sewer intended to receive both wastewater and storm or surface water.

Day means the 24-hour period beginning at 12:01 a.m.

Discharge when used without qualification, means the discharge of a pollutant.

Discharge of a pollutant means:

(1) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

(2) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface run-off which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead

to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

Discharger means person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.

Easement means an acquired legal right for the specific use of land owned by others.

EPA means the United States Environmental Protection Agency.

Establishment means any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

Existing Source means any source which is not a new source or a new discharger.

Garbage means the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Ground Water means any water beneath the land surface in the zone of saturation.

Indirect Discharge means the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

Industrial User or Significant Discharger means a source of indirect discharge, or a nondomestic discharge to a treatment works. *Industrial User* shall include commercial, institutional and other uses, other than residential uses.

Industrial Wastes means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Interference means an inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.

Manager means the Director of Public Works for Fluvanna County or an authorized designee.

May is permissible; *Shall* is mandatory.

Municipality means a city or town.

Natural Outlet means any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

New Discharger means any building, structure, facility or installation:

(1) From which there is or may be a discharge of pollutants;

(2) That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;

(3) Which is not a new source; and

(4) Which has never received a finally effective VPDES permit for discharges at that site.

This definition includes an indirect discharger which commences discharging into surface waters after August 13, 1979.

New Source shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).

Owner means the Commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of section 62.1-44.5 of the Code of Virginia.

Pass-Through means the discharge of pollutants through a POTW into state waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency or group.

pH means the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste,

industrial waste, biological materials, radio active material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

POTW, Publicly Owned Treatment Works means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Fluvanna County treatment works.

Pretreatment Requirements means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users.

Properly Shredded Garbage means garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than one-half (1/2) inch in any dimension.

Residential User (Class 1) shall mean all premises used only for human residency and which is connected to the treatment works.

Sanitary Wastewater shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

Significant Industrial User shall be defined as follows:

(1) Has a process wastewater* flow of 25,000 gallons or more per average work day;
(*Excludes sanitary, non-contact cooling and boiler blowdown wastewater)

(2) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW;

(3) Is subject to categorical pretreatment standards; or

(4) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

Slug Load shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard of this Article or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

Standard Methods shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

State shall mean the Commonwealth of Virginia.

Storm Sewer shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

Surface Water shall mean:

(1) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) all interstate waters, including interstate "wetlands";

(3) all other waters, such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(a) which are or could be used by interstate or foreign travelers for recreational or other purposes;

(b) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(c) which are used or could be used for industrial purposes by industries in interstate commerce.

(4) all impoundments of waters otherwise defined as surface waters under this definition;

(5) tributaries of waters identified in paragraphs (1) - (7) of this definition;

(6) the territorial sea; and

(7) wetlands adjacent to waters other than waters that are themselves wetlands, identified in paragraphs (1) - (6) of this definition.

Suspended Solids shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

Treatment Facility shall mean only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

Treatment Works shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions, or alterations, and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment, or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

Toxics shall mean any of the pollutants designated by federal regulations pursuant to Section 307 (a) (1) of the Act.

User shall mean a source of wastewater discharge into a POTW.

User Permit shall mean a document issued by the POTW to the User that permits the connection and/or introduction of wastes into the treatment works under the provisions of this Article.

Virginia Pollutant Discharge Elimination System permit or *VPDES permit* means a document issued by the board pursuant to this Chapter authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the sue of biosolids or disposal of sewage sludge. Under the approved state program, a VPDES permit is equivalent to an NPDES permit.

VPDES shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

VPDES application or *application* means the standard form or forms, including any additions, revisions or modifications to such forms, approved by the administrator and the board for applying for a VPDES permit.

Wastewater shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or storm water that may be present.

WPCF shall mean the Water Pollution Control Federation.
(Ord. 6-20-07; Ord. 11-18-15)

Sec. 21-4-10. General definitions.

Unless the context of usage indicates otherwise, the meaning of terms in this Article and not defined in Section 1 above, shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, Copyright 1969; by Chapter 1 of this Code; by general law; or by common usage. (Ord. 6-20-07)

SUBARTICLE III. USE OF FLUVANNA COUNTY'S TREATMENT WORKS & TREATMENT FACILITY.

Sec. 21-4-11. Waste disposal.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the county, or in any area under the jurisdiction of the county, any human or animal excrement, garbage, or other objectionable waste. (Ord. 6-20-07)

Sec. 21-4-12. Wastewater discharges.

It is unlawful under state and federal law to discharge without a VPDES permit to any natural outlet within the county or in any area under its jurisdiction. Wastewater discharges to the county's treatment works are not authorized unless permitted by the Manager in accordance with provisions of this Article. (Ord. 6-20-07)

Sec. 21-4-13. Wastewater disposal.

Except as provided in this Article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. (Ord. 6-20-07)

Sec. 21-4-14. Connection to treatment works required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, constructed subsequent to July 1, 2007, and situated within a designated service area at a distance not greater than four hundred (400) feet from any street, alley or right-of-way, in which there is located any sanitary toilet or other disposal liquid waste facilities shall connect such facilities directly with the public sewer. Any existing building or property described above, which is currently being served by a septic or other privately owned sanitary sewerage system, may continue to be served by such system for so long as the same shall continue to serve the property in a lawful and efficient manner,

but no such building or property may be connected to any new privately owned sewerage system after July 1, 2007, except as expressly provided in this Article.

This section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this Article and applicable state and federal laws. (Ord. 6-20-07)

SUBARTICLE IV. BUILDING SEWERS AND CONNECTIONS.

Sec. 21-4-15. Connection permit.

(A) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the Manager.

(B) There shall be two (2) classes of permits for connections to the Fluvanna County Treatment Works & Treatment Facilities.

CLASS I - residential
CLASS II - industrial

In all cases, the owner shall make application for a permit to connect to the Fluvanna County treatment works on a form furnished by the county. The permit application shall be supplemented by wastewater information required to administer this Article. A permit and inspection fee shall be paid to the county at the time the application is filed, in accordance to the fee schedule adopted by the county and in effect from time to time.

(C) Connections to a storm sewer shall be subject to a permit and inspection fee in accordance to the fee schedule established by the county. Such connections shall be subject to the provisions of this Article and the approval of the Manager.
(Ord. 6-20-07)

Sec. 21-4-16. Connection costs.

The costs and expenses incidental to the building sewer installation and connection to the county's treatment works shall be borne by the owner. The owner shall indemnify the county from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 6-20-07)

Sec. 21-4-17. Separate connections required.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or

driveway. When this occurs, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The county assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves more than one building. (Ord. 6-20-07)

Sec. 21-4-18. Existing building sewers.

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the Manager, to meet the requirements of this Article. (Ord. 6-20-07)

Sec. 21-4-19. Building sewer design.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the county. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply. (Ord. 6-20-07)

Sec. 21-4-20. Building sewer elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the county's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the county sewer. (Ord. 6-20-07)

Sec. 21-4-21. Surface runoff and groundwater drains.

(A) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works unless such connection is authorized in writing by the Manager. The connection of such drains shall conform to codes specified in Section 21-4-22(A) of this Chapter or as specified by the manager as a condition of approval of such connection.

(B) Except as provided in Subsection (A) of this Section, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.
(Ord. 6-20-07)

Sec. 21-4-22. Conformance to applicable Codes.

(A) The connection of a building sewer into a treatment works shall conform to the requirements of the building and plumbing code or other applicable requirements of the

County, or the procedures set forth in appropriate specifications of the Commonwealth of Virginia State Water Control Board regulations, Uniform Building Code of Virginia, and American Society of Testing Materials. The connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Manager before installation.
(Ord. 6-20-07; Ord. 11-18-15)

Sec. 21-4-23. Connection inspection.

The applicant for a building sewer or other drainage connection permit shall notify the Manager when such sewer or drainage connection is ready for inspection prior to its connection to the county's treatment works. Such connection inspections and testing as deemed necessary by the Manager shall be made by him. (Ord. 6-20-07)

Sec. 21-4-24. Excavation guards and property restoration.

Excavations for building sewer installation 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. (Ord. 6-20-07)

Sec. 21-4-25. Protection of capacity for existing users.

The Manager shall not issue a permit for any class of connection to the county's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The Manager may permit such a connection if there are legally binding commitments to provide the needed capacity. (Ord. 6-20-07)

SUBARTICLE V. CONDITIONS TO USE THE FLUVANNA COUNTY TREATMENT WORKS.

Sec. 21-4-26. Special uses of treatment works.

All discharges of storm water, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under Section 21-4-21, above. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this Section and this Article. (Ord. 6-20-07)

Sec. 21-4-27. Industrial User, general prohibition upon certain pollutants.

An industrial user shall not introduce any pollutants into the county's treatment works which will pass through or interfere with the operation or performance of the treatment facilities. (Ord. 6-20-07)

Sec. 21-4-28. Restricted discharges.[10]

(A) No person shall discharge or cause to be discharged to any of the county's treatment works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to:

1) Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; waste stream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;

2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges with the following properties:

(i) having a pH lower than 5.0 or greater than 11.0

3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;

4) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;

5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the county wastewater sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the county has obtained prior approval from the approval authority;

6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;

[10] For state regulations, see 9VAC25-31-780.

7) Contain floatable oils, fat, or grease;

8) Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;

9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal law;

10) Contain any garbage that has not been properly shredded;

11) Contain any odor or color producing substances exceeding concentration limits which may be established by the Manager for purposes of meeting the county's VPDES permit, as the same may be amended from time to time;

12) Petroleum oil, nonbiodegradeable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

13) Any trucked or hauled pollutants except at designated discharge points.

(B) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to the Article, the Manager establishes concentration limits to be met by a user, the Manager in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the state, such limits should become pretreatment standards.
(Ord. 6-20-07; Ord. 11-18-15)

Sec. 21-4-29. Categorical pretreatment standards.

(A) No person shall discharge or cause to be discharged to any treatment works wastewaters containing substances subject to an applicable Categorical Pretreatment Standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within three (3) years of the date the standard is promulgated, provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(B) The Manager shall notify any industrial user affected by the provisions of this Section and establish an enforceable compliance schedule for each.

(C) No person shall discharge any hazardous wastes to the county's treatment works except as expressly authorized by this Article and by the terms of the applicable connection permit.
(Ord. 6-20-07)

Sec. 21-4-30. Special agreements.

Nothing in this article shall be construed as preventing any agreement or arrangement between the county and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character (only in terms of BOD and/or Suspended Solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable. (Ord. 6-20-07)

Sec. 21-4-31. Water & energy conservation.

The conservation of water and energy shall be encouraged by the Manager. In establishing discharge restrictions upon users, the Manager shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the Manager, each user will provide him with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the Manager, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps. (Ord. 6-20-07)

Sec. 21-4-32. Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the county or state. (Ord. 6-20-07)

Sec. 21-4-33. Accidental discharges.

(A) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the county for review, and shall be approved by the county before construction of the facility. No user who commences contribution to the POTW after the effective date of this Article shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the county. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(B) Within five (5) days following an accidental discharge; the user shall submit to the Manager a detailed written report describing the cause of the discharge and the measures

to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. 6-20-07)

SUBARTICLE VI. INDUSTRIAL DISCHARGERS.

Sec. 21-4-34. Information requirements.

(A) All industrial dischargers shall file with the county wastewater information deemed necessary by the Manager for determination of compliance with this Article, the county's VPDES permit conditions, and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the Manager and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in Subsection (C) of this Section.

(B) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the Manager.

(C) Information and data on an Industrial User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the county that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Article, The Virginia Pollutant Discharge Elimination System (VPDES) Permit, State Disposal System permit and/or the Pretreatment Programs, provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the county as confidential, shall not be transmitted to any governmental agency or to the general public by the county until and unless a ten (10) day notification is given to the User.
(Ord. 6-20-07)

Sec. 21-4-35. User Permits.

(A) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a User Permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a User Permit within 180 days after the effective date of this Article.

(B) Significant industrial users required to obtain a permit shall complete, and file with the county, an application in the form prescribed by the county, and accompanied by a fee payable to the county in accordance to the fee schedule established by the county. Existing significant industrial users shall apply for a permit within thirty (30) days after the effective date of this Article, and proposed new significant industrial users shall apply at least ninety (90) days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

1) Name, address, and location, (if different from address);

2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;

3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 21-4-28 of this Article as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;

4) Time and duration of contribution;

5) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;

7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;

9) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (*e.g.*, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(ii) No increment referred to in paragraph (i) shall exceed one (1) year.

(iii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than one (1) year elapse between such progress reports to the Manager.

10) Each product produced by type, amount, process or processes and rate of production;

11) Type and amount of raw materials processed (average and maximum per day);

12) Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

13) Any other information as may be deemed by the county to be necessary to evaluate the user permit application.

The county will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the county may issue a user permit subject to terms and conditions provided herein.

(C) Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the user permit of users subject to such standards shall be revised to require compliance with such standard if they are more restrictive than the local limits developed by the POTW within the timeframe prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a user permit as required by Subsection (B) of this Section, the user shall apply for a user permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the user with an existing user permit shall submit to the Manager, within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard, the information required by paragraph (8) and (9) of Subection (B) of this Section.

(D) Permit Conditions:

User permits shall be expressly subject to all provisions of this Article and all other applicable regulations, user charges and fees established by the county. Permits may contain the following:

1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

2) Limits on the average and maximum wastewater constituents and characteristics **(Permits must contain this item);**

3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization **(Permits must contain this item);**

4) Requirements for installation and maintenance of inspection and sampling facilities;

5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

6) Compliance schedules;

7) Requirements for submission of technical reports or discharge reports - See Section 21-4-36 of this Article **(Permits must contain this item);**

8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the county, and affording the county access thereto **(Permits must contain this item);**

9) Requirements for notification of the county for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works **(Permits must contain this item);**

10) Requirements for immediate notification of slug discharges **(Permits must contain this item);**

11) Other conditions as deemed appropriate by the county to ensure compliance with this Article.

12) Statement of applicable remedies.

(E) User permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the county during the term of the permit as limitations or requirements as identified in this Section are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(F) User permits are issued to a specific user for a specific operation. A user permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises, or a new or changed operation without the approval of the county. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.
(Ord. 6-20-07)

Sec. 21-4-36. Reporting requirements for permittee.

(A) Within ninety (90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any User subject to Pretreatment Standards and Requirements shall submit to the Manager a report indicating the

nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements.

The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements.

In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in Subsection (B) (2) of this Section, below. This statement shall be signed by an authorized representative of the User, and certified to by a qualified professional.

(B) (1) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of such Pretreatment Standard or in the case of a New Source, after commencement of the discharge into the treatment works, shall submit to the Manager during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Manager, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the Manager, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Manager may agree to alter the months during which the above reports are to be submitted.

(2) The Manager may impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or Production and mass where requested by the Manager, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with sampling and analytical procedures approved by EPA.

(Ord. 6-20-07)

Sec. 21-4-37. Provision for monitoring.

(A) When required by the Manager, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Manager. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(B) The Manager shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(C) Where the Manager determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the (Manager) may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the Manager's judgment, provide a reasonably reliable measurement of such characteristics.

(D) Measurements, tests, and analyses of the characteristics of wastewater required by this Article shall conform to 40 CFR, Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the county's laboratory, make arrangement with any qualified laboratory, including that of the discharger, to perform such analyses.

(E) Fees for any given measurement, test, or analysis of wastewater required by this Article and performed by the county shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.
(Ord. 6-20-07)

Sec. 21-4-38. Costs of damage.

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the county's treatment works or treatment facility, the Manager shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage. (Ord. 6-20-07)

SUBARTICLE VII. PRETREATMENT.

Sec. 21-4-39. Wastewater with special characteristics

(A) While the Manager should initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the Manager may require any or all of the following:

1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;

2) Control over the quantities and rates of discharge;

3) The development of compliance schedules to meet any applicable pretreatment requirements;

4) The submission of reports necessary to assure compliance with applicable pretreatment requirements;

5) Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;

6) Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Article IX of this Article, or appropriate criminal penalties; or

7) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

(B) When considering the above alternatives, the Manager shall assure that conditions of the county's permit are met. The Manager shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the Manager allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The Manager shall review and recommend any appropriate changes to the program, within thirty (30) days of submittal.

(C) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.
(Ord. 6-20-07)

Sec. 21-4-40. Compliance with pretreatment requirements.

Persons required to pretreat wastewater in accordance with Section 21-4-39 above shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the Manager as described in Section 21-4-35 (B) (9). The plan (including schedules) shall be consistent with applicable conditions of the county's Permit or other local, state or federal laws. (Ord. 6-20-07)

Sec. 21-4-41. Monitoring requirements.

Discharges of wastewater to the county's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the User's permit. (Ord. 6-20-07)

Sec. 21-4-42. Effect of federal law.

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such federal regulations shall immediately supersede the otherwise applicable provisions of this Article if they are more stringent. (Ord. 6-20-07)

Sec. 21-4-43. Certification.

All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements. (Ord. 6-20-07)

SUBARTICLE VIII. WASTEWATER SERVICE, CHARGES AND INDUSTRIAL COST RECOVERY.

Sec. 21-4-44. Wastewater service charges.

Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Unpaid charges and fees shall constitute a lien on the property from which such charges and fees shall have been generated, to the extent and as permitted by law. (Ord. 6-20-07)

Sec. 21-4-45. Industrial cost recovery.

Users of the county's treatment works and treatment facilities will also be assessed industrial cost recovery charges as required by law. (Ord. 6-20-07)

Sec. 21-4-46. Determination of system use.

(A) The use of the county's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of Section 21-4-37 of this Chapter to the extent such measurement and analysis is considered by the Manager to be feasible and cost-effective.

(B) Where measurement and analysis is considered not feasible, determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by Subection (C) below.

(C) The Manager, when determining actual use of the county's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the Manager. The actual average water use by each residential user (Class I) during the three months of January, February, and March shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year. (Ord. 6-20-07)

SUBARTICLE IX. ENFORCEMENT.

Sec. 21-4-47. Harmful discharges.

The county may suspend the wastewater treatment service and/or a User Permit when such suspension is necessary, in the opinion of the county, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, causes interference to the treatment facilities or causes the county to violate any condition of its VPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the User Permit shall immediately cease all such discharges to the county's system. In the event of a failure of the person to comply voluntarily with the suspension order, the county may take such steps as deemed necessary, including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to the public or to public or private property. The county shall reinstate the User Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. Prior to and as a condition of such reinstatement, a detailed written statement submitted by the user describing the causes of the

harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the county within fifteen (15) days of the date of the discharge which occasioned such suspension.
(Ord. 6-20-07)

Sec. 21-4-48. Revocation of permit.

Any user who violates the following conditions of this Article, or applicable State and federal law, shall be subject to having his permit revoked in accordance with the procedures of this Subarticle for:

(A) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(B) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(C) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(D) Violation of conditions of the permit.
(Ord. 6-20-07)

Sec. 21-4-49. Notification of violation.

Whenever the county finds that any User has violated or is violating this Article, User Permit, or any prohibition or limitation of requirements contained herein, the county may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, or such shorter period as may reasonably specified in such notice, a plan for the satisfactory correction thereof shall be submitted to the county by the user. (Ord. 6-20-07)

Sec. 21-4-50. Show Cause hearing.

(A) The County may order any user who causes or allows an unauthorized discharge to show cause why the proposed enforcement action should not be taken. Such hearings shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(B) The Manager may conduct the hearing and take the evidence, or may designate another officer or employee of the county to:

1) Issue in the name of the Manager notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

2) Take the evidence;

3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Manager for action thereon.

(C) At any hearing held pursuant to this Article, testimony taken must be under oath and recorded verbatim using generally accepted means of recording. A transcript of the proceedings so recorded shall be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(D) After the Manager has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
(Ord. 6-20-07)

Sec. 21-4-51. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's treatment works contrary to the provisions of this Article, applicable federal or state Pretreatment Requirements, or any order of the county or if any industrial user refuses access to the Manager or his designee for purposes of inspection, the county attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.
(Ord. 6-20-07)

Sec. 21-4-52. Penalties.

(A) Any person or user that violates the provisions of this Article or a user/discharge permit hereunder shall be subject to a penalty of $1000.00 per day and/or shall, upon conviction, be punished as for a Class 2 misdemeanor for each day the violation continues.

(B) Each day, or portion thereof, a violation continues shall constitute a separate violation.
(Ord. 6-20-07)

Sec. 21-4-53. Falsifying information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article, or User Permit, or who falsifies any monitoring device or method required under this Article, shall upon conviction, be punished as for a Class 1 misdemeanor. (Ord. 6-20-07)

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ZONING

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Sec. 22-25-12.1. Appeal.

[1] Renamed by Editor from "Sec. 22-25. Outdoor Light Control Article."

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Sec. 22-27-10.3. Additional submittal requirements for all freestanding telecommunication and broadcast antenna support facilities.
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Chapter 22
ZONING

Article 1. In General.

Sec. 22-1-1. Title.

This Chapter shall be known and may be cited as "The Zoning Ordinance of the County of Fluvanna, Virginia."[2]

Sec. 22-1-2. Purpose.

This Chapter, together with the accompanying map, is adopted for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of section 15.2-2283 of the Code of Virginia. This Chapter has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, impounding structure failure, 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; and (9) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the county is situated.
(Ord. 12-16-15)

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[2] For state law as to zoning, see Code of Va., §15.2-2280 et seq.

Editor's note -- The current Zoning Ordinance of Fluvanna County, Virginia, was adopted April 5, 2004, and generally ratified 5-5-04. Amendments subsequent to 5-5-04 are identified in this chapter by the date of amendment in parentheses following the affected section.

Article 2. Districts.

Sec. 22-2-1. Districts.

For the purpose of this chapter, the unincorporated area of the county is hereby divided into the following districts:[3]

Agricultural, General, A-1
Residential, Limited, R-1
Residential, General, R-2
Residential, Planned Community, R-3
Residential, Limited, R-4
Business, General, B-1
Business, Convenience, B-C
Industrial, Limited, I-1
Industrial, General, I-2
Manufactured Home Park, MHP
Planned United Development, PUD.

(Ord. 12-16-15)

Article 3. Reserved.

Article 4. Agricultural, General, District A-1.

Sec. 22-4-1. Statement of intent.

This district covers areas of the county consisting of woodland, farmland, open space, mountains and areas of low density residential development. The primary objectives of this district are to conserve water and other natural resources, reduce soil erosion, protect watersheds and reduce hazards from floods; to preserve the rural character of the county; to promote existing and future farming and forestry operations; and to promote the retention of undisturbed open space. Limited residential development, and limited commercial and industrial uses which are supportive of and directly related to agriculture, forestry or other traditionally rural uses, are to be permitted, but only in a manner consistent with the primary objectives of the district. In particular, the provisions of this district are intended to

[3] Editor's note. -- Prior to August 19, 1992, the Zoning Ordinance of Fluvanna County, Virginia, contained a district identified as "Conservation, C-1." The Conservation, C-1 district was repealed by ordinance adopted on that date.

significantly limit conventional and roadside strip development, especially on major arteries and commuter routes.

Sec. 22-4-2. Use regulations.

In Agricultural, General District A-1, the following uses, together with ordinary and necessary accessory uses, shall be permitted, and no others.

Sec. 22-4-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses
Agriculture
Conservation areas
Equestrian facilities
Farm sales
Hunt clubs
Hunting preserves

Civic Uses
Public parks and recreational areas
Public uses

Commercial Uses
Family daycare homes
Home occupations

Industrial Uses
Sawmills, temporary

Miscellaneous Uses
Accessory uses
Cemeteries, non-commercial
Greenhouses, non-commercial
Kennels, private
Marinas, private non-commercial
Rural cluster developments
Shooting, private recreational
Utilities, minor

Woodstorage, temporary

Residential Uses

Dwellings, accessory
Dwellings, two-family
Farm tenant housing
Group homes
Manufactured homes
Mobile homes, as defined in Sec. 22-4-2.3
Single-family detached dwellings, including family subdivisions and conventional minor subdivisions, but excluding conventional major subdivisions recorded after April 5, 2004

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-4-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Agricultural Uses

Agricultural enterprise
Agricultural sales, wholesale
Livestock feed lots, commercial
Livestock sales yards, commercial

Civic Uses

Amusements, public
Correctional facilities
Cultural services
Educational facilities
Public assembly
Public recreation assembly
Religious assembly
Sheltered care facilities

Commercial Uses

Adult retirement communities
Amusements, commercial
Assisted living facilities
Automobile repair service establishments
Bed and breakfasts

Boarding houses
Butcher shops
Campgrounds
Camps
Car washes
Cemeteries, commercial
Communications service
Dance halls
Daycare centers
Flea markets
Funeral homes
Garden center
Gas stations
Greenhouses, commercial
Hotels
Kennels, commercial
Landscaping materials supply
Lodges
Medical clinics
Outdoor entertainment
Outdoor recreation facilities
Restaurants, small
Retail stores, neighborhood convenience
Retail stores, specialty
Shooting ranges, indoor
Shooting ranges, outdoor
Small home industries
Studios, fine arts
Taxidermists
Veterinary offices

Industrial Uses
Railroad facilities
Resource extraction
Solid waste collection facilities

Miscellaneous Uses
Aviation facilities
Outdoor gatherings
Telecommunication facilities

Utilities, major

Residential Uses

Dormitories

(Ord. 9-17-08; Ord. 12-17-08; Ord. 10-21-09; Ord. 7-21-10; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-4-2.3. Mobile homes.

One (1) mobile home per parcel shall be permitted, with issuance, by the Planning Director, of a zoning permit, in the following instances:

(A) Mobile home to be occupied by a bona fide farm tenant with the permit to be revalidated by the governing body every two (2) years so long as the conditions are met;

(B) Mobile home to be occupied because of an emergency medical or moral obligation with the permit to be revalidated by the governing body every two (2) years so long as the conditions exist. For purposes of this section, the term "an emergency medical or moral obligation" shall be deemed to mean a set of circumstances in which a landowner must provide shelter and/or care to one or more persons through the occupancy of the mobile home in order to alleviate a clearly demonstrable danger of serious impairment to the health and/or welfare of any person or persons which is occasioned by a medical disorder or condition or other compelling cause beyond the control of such person or persons and which cannot be remedied in any other reasonable manner;

(C) Mobile home to be occupied by the owner of the property while constructing a permanent single-family dwelling on the same property or reconstructing a single-family dwelling destroyed by natural disaster. This permit shall be for a period of one (1) year only but may be renewed each year by the governing body for a period of not more than five (5) continuous years. In addition, the governing body may grant an additional extension of time for the occupancy of any such mobile home, not to exceed twenty-four (24) months from the expiration of the last renewal period of the original permit, upon a finding that the owner of the property has attempted in good faith to complete such single-family dwelling within the time permitted by law, but has been unable to do so as a result of adverse weather conditions, act of God, bona fide inability to timely obtain satisfactory building materials, or other circumstances or condition beyond the control of such owner.

(Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-4-3. Residential density; minimum lot size; dimensional requirements.

Maximum gross residential density and minimum lot size and minimum dimensional requirements for conventional development, but not for Rural Cluster Subdivisions, shall be as follows:

(A) Gross residential density: one (1) dwelling unit per two (2) acres. In order to construct more than one dwelling on any one parcel, a sketch plan must be submitted that would demonstrate that all dwellings could be lawfully subdivided so as to be on their own lots.

(B) Minimum lot size: two (2) acres

(C) Minimum frontage required:

(1) Existing or proposed public roads, except as otherwise provided:

(a) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 500 feet

(b) All other public roads: 300 feet

(2) Private roads: 200 feet

(D) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.

(E) Minimum setback required (as measured from edge of right of way):

(1) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 200 feet

(2) All other public roads: 125 feet

(3) Private Roads: 100 feet

(F) Minimum side yard: 50 feet

(G) Minimum rear yard: 75 feet.

Sec. 22-4-4. Reserved.

Sec. 22-4-5. Special provisions for corner lots.

Any lot or parcel fronting on two or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

Sec. 22-4-6. Off-street parking.[4]

Off-street parking shall conform to Article 26: Off-Street Parking and Loading Spaces of this Chapter. (Ord. 12-16-15)

Sec. 22-4-7. Sign regulations.

Sign regulations shall conform to Article 15 of this Chapter.

Sec. 22-4-8. Height regulations.

Buildings and structures may be erected up to thirty-five (35) feet in height, except that:

(A) The height limit for dwellings may be increased up to forty-five (45) feet provided one (1) foot or more per side yard is added for each additional foot of building height over thirty-five (35) feet.

(B) A public or semi-public building such as a school, place of worship, or library or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall each be increased one (1) foot for every foot in height over thirty-five (feet).

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty (60) feet from grade. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. Buildings and structures used for agricultural purposes, including barns, silos, windmills and the like, may be erected to a height of ninety (90) feet from grade.

(D) No accessory building which is within fifteen (15) feet of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

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[4] For state law granting localities the authority to regulate off-street parking, see Code of Va., § 15.2-2279.

Sec. 22-4-9. Intensive livestock, dairy and poultry facilities; statement of intent.

This section (sections 22-4-9[5] through 22-4-9.4) encourages economic development, preserves farm land, and promotes the orderly and responsible growth of the livestock, dairy and poultry industries. In the Agricultural (A-1) district, all agricultural production uses, including the uses defined herein as intensive livestock, dairy and poultry facilities, shall be permitted by right.

Sec. 22-4-9.1. Definitions.

For the purpose of sections 22-4-9 through 22-4-9.4, the following terms shall have the meaning indicated:

(1) Livestock includes all domestic or domesticated animals, including but not limited to: cattle, sheep, lambs, hogs, goats, horses, poultry and furbearing animals.

(2) Intensive livestock, dairy or poultry facility means a livestock, dairy or poultry operation where, for a period of forty-five (45) consecutive days or more, 300 animal units are closely confined and not free-ranging, and are fed in the area of confinement. For the purpose of this article, 300 animals units shall be equivalent to any of the following, or any combination thereof where the animals are confined in one location:

Livestock: 300 slaughter or feeder cattle
Livestock: 750 swine each weighing over 55 pounds
Livestock: 150 horses
Livestock: 3,000 sheep, lambs, or goats
Livestock: 16,500 furbearing animals such as rabbits or chinchilla
Dairy: 200 mature dairy cows (whether milked or dry cows)
Poultry: 16,500 turkeys
Poultry: 30,000 laying hens or broilers

(3) Intensive livestock, dairy or poultry structure means a building, structure or other improved area used in the operation of an intensive livestock, dairy or poultry facility; including, but not limited to, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, or dead poultry cold storage chests. The term shall not include structures that are used only indirectly in the operation of the facility.

[5] Editor's Note – Erroneously appears in original as 22-9-4.

(4) Operator means any person who operates an intensive livestock, dairy or poultry facility, or the land on which it is located.

(5) Poultry means any domestic or domesticated fowl raised for meat or eggs; including, but not limited to, chickens and turkeys.

(6) Existing intensive livestock, dairy or poultry structure means an intensive livestock, dairy or poultry structure that has been in operation for one (1) year within the five (5) years immediately preceding the date on which a building or zoning permit is sought for a dwelling.
(Ord. 12-16-15)

Sec. 22-4-9.2. Setbacks.

(1) Except as otherwise expressly provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from any property line.

(2) Any dwelling not owned by the operator shall be set back from any existing intensive livestock, dairy or poultry structure as follows:

(a) If the dwelling is an Agricultural (A-1) district, 300 feet;

(b) If the dwelling is in a residential district, 600 feet.

(3) Each intensive livestock, dairy or poultry structure shall be setback at least 300 feet from any property line, at least 200 feet from the right-of-way of any secondary road, and at least 300 feet from the right-of-way of any primary highway.

(4) Each intensive livestock, dairy or poultry structure shall be setback at least 1,000 feet from any incorporated town, public school, place of worship, public water intake from a stream or river and from the boundary of any adjacent residential district.
(Ord. 12-16-15)

Sec. 22-4-9.3. Development plans to include plat or similar document.

(1) Any person who intends to establish or expand an intensive livestock, dairy or poultry facility shall file with the zoning administrator a development plan, including a plat, or similar document, that indicates the number, size and location of all intensive livestock, dairy or poultry structures planned for the subject parcel; and a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the zoning

administrator that the facility meets all applicable requirements. Where a proposed expansion would not substantially change the character of the facility or the intensity of the use, the zoning administrator may approve the expansion without requiring a development plan.

(2) If the plan meets the requirements of sections 22-4-9 through 22-4-9.4, the zoning administrator shall approve it within thirty (30) days of receipt. If the plan does not meet the requirements of sections 22-4-9 through 22-4-9.4 of this Chapter, the zoning administrator shall return it to the applicant within thirty (30) days of receipt, together with a written description of the portion or portions of the plan that do not meet such requirements. Any plan not returned to the applicant within thirty (30) days of receipt shall be deemed approved. As long as an approved plan is in effect, the applicant shall have the right to build structures and operate the facilities shown thereon, not withstanding any dwelling or other feature located after the time of approval.

(3) The development plan shall remain in force only so long as the proposed structures are constructed in accordance with the development plan. At least one-third of the number of livestock or dairy animals indicated in the development plan, or one poultry structure, shall be placed in service within five (5) years of the date on which the development plan is approved by the zoning administrator, unless at least one-third the livestock, or one poultry structure, was already in service at the time the plan was filed. In the event the operator fails to obtain building and zoning permits for any of the proposed structures, or fails to have in place the minimum number of livestock required above, within five (5) years of the date on which the development plan is approved by the zoning administrator, the development plan shall expire.

(4) The operator shall notify the zoning administrator in writing within thirty (30) days of placement into service of any structure indicated on his plan.

(5) Each parcel for which a development plan has been approved shall display at its entrance a sign no smaller than two (2) square feet, and no larger than four (4) square feet, clearly visible from the nearest public road, indicating that a development plan is in effect for the parcel and containing the word "Certified Agricultural Development Site".

(6) Nothing herein shall be construed to prohibit an operator or a potential operator from submitting amendments to his or her original development plan, or from submitting revised plans. The zoning administrator shall review such amendments or revised plans as required in subsection (1) above according to the zoning ordinance in effect at the time the amendments or revised plans are received.

Sec. 22-4-9.4. Nutrient management plan.

After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and Recreation, or by a person certified or employed by the Virginia Soil and Water Conservation Board or the Commonwealth as a nutrient management planner, in accordance with 4VAC50-85-10 et seq., "Nutrient Management Training and Certification Regulations."

If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as a part of the plan, written documentation of an agreement with the receiver of the waste produced at his facility, or affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before it expiration date, the operator shall notify the zoning administrator within fifteen (15) days of termination.
(Ord. 12-16-15)

Sec. 22-4-10. Rural Cluster Development.

It shall be the policy of the county to promote the preservation of open space and the rural character of the county, while at the same time accommodating growth and protecting the value of property. To implement such policy, development of property according to rural cluster principles shall be encouraged throughout the county in accordance with the provisions of this Section.

Sec. 22-4-10.1. Definitions.

For purposes of this Section 22-4-10, the following terms shall be deemed to have the following meanings:

Building lot shall mean any lot which is sold or intended for use for the construction of one or more residential units.

Rural cluster development shall mean any subdivision or other development for sale or use for residential purposes as provided in this Section.

Existing public road shall mean any road which is maintained as part of the Virginia Highway System or the Virginia Secondary Highway System at the time of the final approval for any rural cluster development; provided that no road which is dedicated to public use in connection with the approval of any cluster option development, whether by depiction on a subdivision plat or otherwise, shall be deemed to be an existing public road for purposes of this section.

Open space parcel shall mean any parcel which is restricted from further residential, commercial or industrial development as provided herein.

Sec. 22-4-10.2. Compliance with zoning and subdivision regulations.

Each rural cluster development shall comply with the provisions of this Section 22-4-10, and, to the extent that the provisions of this Section shall conflict with other provisions of this Chapter, the provisions of this Section shall control. Except to the extent of such conflict, the provisions of this Chapter shall control every rural cluster development. In addition, every rural cluster development shall comply with the provisions of Chapter 19 of the Code.[6]

Sec. 22-4-10.3. Rural Cluster Regulations.

Any parcel of land which is otherwise susceptible to development into building lots may be divided into lots which provide for the preservation of substantial open space as hereinafter provided. Such development shall be known as rural cluster development.

(1) The gross density for any rural cluster development shall not exceed one (1) dwelling unit per two (2) acres, as provided in this district.

(2) Repealed. (Ord. 6-15-05)

(3) Not less than ¾ of the area of any rural cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the rural cluster development, and in favor of the county. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the county, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction,

[6] Chapter 19 of this code sets out the provisions adopted as the Subdivision Ordinance of Fluvanna County, Virginia.

conveyance or dedication shall be subject to the approval of the county to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(4) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:

(A) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.

(B) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.

(C) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the rural cluster development or of the public, but, in any event, not for residential, commercial or industrial use.

(D) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.

(E) Cable communications distribution lines.

(F) Public uses and structures.

(G) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the rural cluster development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)

(H) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the rural cluster development subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)

(I) Non-commercial cemeteries.

(5) Each building lot shall be so designed as to provide minimum setbacks and yards. Except for buildings lots fronting on existing public roads, such setbacks and yards shall be not less than the minimum setback and yard requirements of the R-4 residential district which are as follows:

(A) The minimum frontage for permitted uses shall be sixty (60) feet, and for each additional permitted use there shall be at least ten (10) feet of additional lot width.

(B) Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten (10) feet on each side.

(C) Rear. Each main structure shall have a rear yard of twenty-five (25) feet or more, and no accessory building shall be placed within twenty five (25) feet of any rear line.

(D) Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

(6) Each building lot fronting on an existing public road shall conform to the minimum frontage, setback and yard requirements for conventional development in this district. For purposes of this section, any building lot which is separated from an existing public road by any open space parcel shall be deemed to front on such existing public road for purposes of the application of such minimum frontage, setback and yard requirements unless the distance between the boundary of such open space parcel and any abutting building lot shall be at least equal to the minimum setback requirement applicable to conventional development in this district.

(7) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes**,** in such a manner as to maximize the efficient use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:

(A) Construction of residential improvements;

(B) Provision of utilities, including, where applicable, public or common sewer and/or water facilities;

(C) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;

(D) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the county; and

(E) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area, and provide for contiguous greenways and wildlife corridors.

Article 5. Residential, Limited, District R-1.

Sec. 22-5-1. Statement of intent.

This district is composed of certain quiet, low density residential areas, plus certain open areas where similar residential development appears likely to occur. It is intended that this district be established in the appropriate areas designated in the Comprehensive Plan for primary residential development. The regulations for this district are designed to stabilize and protect the essential characteristics of the district.

Sec. 22-5-2. Use regulations.

In Residential District R-1, only one (1) main structure or use and its accessory uses shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.

Sec. 22-5-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses
Agriculture*

Civic Uses
Public parks and recreational areas
Public uses

Commercial Uses
Home occupations

Miscellaneous Uses
Accessory uses
Cluster developments
Greenhouses, non-commercial
Kennels, private
Utilities, minor

Residential Uses
Dwellings, accessory
Dwellings, single-family detached
Dwellings, two-family
Group homes

* Only permitted in open space of cluster developments.
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-5-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Agricultural Uses
Equestrian facilities*
Farm sales*

Civic Uses
Educational facilities
Public recreation assembly
Religious assembly

Commercial Uses
Adult retirement communities
Daycare centers
Family daycare homes

Miscellaneous Uses
Telecommunication facilities
Utilities, major

* Only permitted in open space of cluster developments.
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-5-3. Area and residential density regulations.

The minimum lot area for permitted uses shall be 43,560 square feet (1 acre). The maximum permitted residential density for such uses shall be one dwelling unit per acre. All uses shall be served by a central, common, or public water or sewer system.

Sec. 22-5-4. Setback regulations.

Structures shall be located seventy-five feet (75') or more from any street right-of-way. This shall be known as the "setback line."

Sec. 22-5-5. Frontage regulations.

The minimum frontage for permitted uses shall be one hundred feet (100').

Sec. 22-5-6. Yard regulations.

(A) Side. The minimum side yard for each main structure shall be twenty-five feet (25') on each side.

(B) Rear. Each main structure shall have a rear yard of fifty feet (50') or more.

Sec. 22-5-7. Special provisions for corner lots.

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

Sec. 22-5-8. Cluster alternative development.

Cluster development shall be permitted in any R-1 Residential District, subject to the following regulations:

(A) Gross residential density: 1 dwelling unit per 1 acre

(1) Minimum lot size: Fifteen thousand square feet

(2) Maximum lot size: 1 Acre (43,560 square feet)

(B) Minimum frontage required:

(1) Existing public roads: one hundred feet (100')

(2) New, internal public roads: eighty feet (80')

(C) Reserved.

(D) Minimum lot width at minimum required setback shall be equal to minimum required frontage.

(E) Minimum setback required (as measured from edge of right-of-way):

(1) Existing public roads: seventy-five feet (75')

(2) All other roads: twenty-five feet (25')

(F) Minimum side yard: ten feet (10')

(G) Minimum rear yard: twenty-five feet (25')

(H) Open space required: Not less than ½ of the area of any cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the cluster development, and in favor of the county. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the county, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the county to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the

acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(I) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:

(1) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.

(2) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.

(3) Parks, playgrounds, preserves, conservation areas, hunting and boating clubs and small boat docks, all of which shall be maintained for the use of the residents of the cluster alternate development or of the public, but, in any event, not for residential, commercial or industrial use.

(4) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.

(5) Cable communications distribution lines.

(6) Public uses and structures.

(7) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)

(8) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)

(9) Non-commercial cemeteries.

(J) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes, in such a manner as to maximize the efficient

use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:

(1) Construction of residential improvements;

(2) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;

(3) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the county; and

(4) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area.

Sec. 22-5-9. Height regulations.

Buildings and structures may be erected up to thirty-five feet (35') in height, except that:

(A) The height limit for dwellings may be increased up to forty-five feet (45') provided one foot (1') or more per side yard is added for each additional foot of building height over thirty-five feet (35').

(B) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60') from grade provided that required front, side, and rear yards shall each be increased one foot (1') for every foot in height over thirty-five feet (35').

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

(D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those

permitted under subsection (C) above, shall be less than the main building or structure in height.

Sec. 22-5-10. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

Sec. 22-5-11. Sign regulations.

Sign regulations shall conform with Article 15 of this Chapter.

Article 6. Residential, General, District R-2.

Sec. 22-6-1. Statement of intent.

This district is composed of certain low to medium density concentrations of residential uses, plus certain open areas where similar development appears likely to occur. It is intended that this district be established in areas designated as community planning areas in the Comprehensive Plan. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. This residential district is not completely residential as it includes public and semi-public, institutional, and other related uses. However, it is basically residential in character, and, as such, should not be spotted with commercial and industrial uses.

Sec. 22-6-2. Use regulations.

In Residential District R-2, only one (1) main structure or use and its accessory uses shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.

Sec. 22-6-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses
Agriculture*

Civic Uses
Public parks and recreational areas
Public uses

Commercial Uses
Home occupations

Miscellaneous Uses
Accessory uses
Cluster developments
Greenhouses, non-commercial
Kennels, private
Utilities, minor

Residential Uses
Dwellings, accessory
Dwellings, multi-family
Dwellings, single-family attached
Dwellings, single-family detached
Dwellings, townhouse
Dwellings, two-family
Group homes

* Only permitted in open space of cluster developments.
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-6-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Agricultural Uses
Equestrian facilities*
Farm sales*

Civic Uses
Educational facilities
Public recreation assembly

Religious assembly

Commercial Uses
Adult retirement communities
Daycare centers
Family daycare homes

Miscellaneous Uses
Telecommunication facilities
Utilities, major

* Only permitted in open space of cluster developments.
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-6-3. Area and residential density regulations.

The minimum lot area for permitted uses utilizing both central or public water and central or public sewerage systems shall be 21,780 square feet. All uses shall be served by a central, public, or common water or sewer system.

Sec. 22-6-4. Setback regulations.

Structures shall be located fifty feet (50') or more from any street right-of-way. This shall be known as the "setback line."

Sec. 22-6-5. Frontage regulations.

(A) Existing public roads: 100 feet

(B) New, internal public roads: 50 feet

Sec. 22-6-6. Yard regulations.

(A) Side. The minimum side yard for each main structure, including a group of attached dwelling units, shall be ten feet (10') on each side.

(B) Rear. Each main structure shall have a rear yard of twenty-five feet (25') or more.

Sec. 22-6-7. Special provisions for corner lots.

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

Sec. 22-6-8. Cluster alternative development.

Cluster development shall be permitted in any R-2 Residential District, subject to the following regulations:

(A) Gross residential density: 2 dwelling units per 1 acre

(B) Minimum lot size: Seven thousand two hundred sixty square feet

(C) Minimum frontage required:

(1) Existing public roads: 100 feet

(2) New, internal public roads: 24 feet for each dwelling unit, exclusive of required setbacks and yards

(D) Minimum lot width at minimum required setback shall be equal to minimum required frontage.

(E) Minimum setback required (as measured from edge of right-of-way):

(1) Existing public roads: 75 feet

(2) All other roads: 20 feet

(F) Minimum side yard

(1) Single-family detached dwellings: 20 feet

(2) All other residential uses: 20 feet between buildings and groups of attached units

(G) Minimum rear yard: 25 feet

(H) Open space required: Not less than ½ of the area of any cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land

so restricted and in favor of each building lot in the cluster development, and in favor of the county. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the county, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the county to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(I) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:

(1) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.

(2) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.

(3) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the cluster alternate development or of the public, but, in any event, not for residential, commercial or industrial use.

(4) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.

(5) Cable communications distribution lines.

(6) Public uses and structures.

(7) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)

(8) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)

(9) Non-commercial cemeteries.

(J) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes**,** in such a manner as to maximize the efficient use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:

(1) Construction of residential improvements;

(2) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;

(3) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the county; and

(4) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area.

Sec. 22-6-9. Height regulations.

Buildings and structures may be erected up to thirty-five feet (35’) in height, except that:

(A) The height limit for dwellings may be increased up to forty-five feet (45’) provided one foot (1’) or more per side yard is added for each additional foot of building height over thirty-five feet (35’).

(B) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60’) from grade provided that required front, side, and rear yards shall each be increased one foot (1’) for every foot in height over thirty-five feet (35’).

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

(D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

Sec. 22-6-10. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

Sec. 22-6-11. Sign regulations.

Sign regulations shall conform with Article 15 of this Chapter.

Article 7. Residential, Planned Community, District R-3.

Sec. 22-7-1. Statement of intent.

This district is intended to permit compact village-style residential development and associated institutional uses, community serving mixed uses, open spaces, and creative design in accordance with a master plan. The development should occur in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features of the land; and to protect and enhance the natural scenic beauty of the area and support. The scale of the housing and the commercial use should be appropriate to support the residential needs at a neighborhood scale.

Sec. 22-7-2. Establishment -- Request and master plan.

Request for establishment of a residential planned community shall be made initially to the planning commission and subsequently to the governing body accompanied by a "Master Plan" for the proposed community.

Sec. 22-7-3. Same -- Application.

(A) The applicant shall submit a sketch plan and meet with the Planning Director for a pre-proposal conference.

(B) Applicant submits a Preliminary Master Plan to the Planning Director. Within ten (10) days the Planning Director shall review the preliminary master plan application for completeness, and if it is incomplete, so notify the subdivider, specifying instructions for its completion.

(C) After it is determined to be complete, the applicant shall furnish with a rezoning application for establishment of a Residential Planned Community, thirty (30) copies of a Preliminary Master Plan prepared by a surveyor, engineer, landscape architect, or architect, duly authorized by the State to practice as such.

(D) After approval, R-3 zoning is established and the master plan governs development of the site. The master plan may be amended with the approval by the Planning Commission of a master plan amendment.

Sec. 22-7-4. Required information on preliminary master plan.

The location of the open areas which shall comprise not less than twenty-five percent (25%) of the whole. The open areas shall include parks, recreation facilities, residential clubhouse grounds, lakes, trails, and land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets and roads and parking lots. This area may be used for active recreation facilities identified in Section 22-7-12. The open areas of the tract shall be delineated due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high scenic, open space and water quality protection values including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical, archaeological or cultural features.

The Preliminary Master Plan shall contain the following information:

(A) The general location of the various types of land uses, including the general location of any village centers, and the residential density classifications of each residential area;

(B) The areas designated for residential development, with maximum proposed number of units, density calculations, and plot plans of typical units provided;

(C) The areas designated for commercial and/or institutional development, with maximum proposed square footages and floor area ratios indicated. The location of all buildings and improvements, and their proposed use, other than single-family dwellings, and the location of any public buildings shall be shown;

(D) The street layout, with indication of which streets are to be dedicated to public use and which are to be held in private ownership, and a brief description of maintenance arrangements; street functional classification; and proposed street cross-sections;

(E) The pedestrian and bicycle facilities, including sidewalks and trails, with proposed cross-sections;

(F) The orientation of the Preliminary Master Plan to the surrounding community by extending the overall development and preservation pattern, tree protection and buffers, general building design, covenants and restrictions;

(G) The general location of all public and private roads;

(H) The adequate provision for general sewer, storm drainage, and water supply; and

(I) The Preliminary Master Plan shall also demonstrate its compliance with the county's Comprehensive Plan.
(Ord. 12-16-15)

Sec. 22-7-5. Development -- Final master plan.

(A) Submitting the Final Master Plan:

(1) The applicant shall submit five (5) copies of the final Master Plan to the Planning Director. The final plan shall have been prepared by a licensed surveyor, engineer, landscape architect, or architect.

(2) The final plans shall be consistent with the Preliminary Master Plan as approved. The applicant may vary from the approved Preliminary Master Plan to any degree if it does not vary the basic concept or character of the development.

(3) Any departure from the approved Preliminary Master Plan must be approved by the Planning Commission.

(B) The Final Master Plan must contain:

(1) All the Preliminary Master Plan Information;

(2) The location of the existing and proposed property lines;

(3) The plans and specifications for roads, pedestrian facilities, parking areas, Stormwater Management facilities, water and sewer system, active recreational facilities, and any other infrastructure elements proposed and shall be in compliance with Virginia Stormwater Management Regulations;

(4) Any and all proposed Homeowners Association documents for review and approval by the county attorney; if any roads, open space, or other facilities are proposed for ownership by such association;

(5) A final plat meeting the requirements of Chapter 19: Subdivisions of this Code;

(6) A Site Development Plan for any commercial, institutional, multi-family meeting the requirements of Chapter 22-23: Site Development Plans of this Code;

(7) A performance bond for improvements as provided in Chapter 19: Subdivisions of this Code;

(8) A proposed deed of easement including restrictions safeguarding the permanent use of open areas and preventing encroachment thereupon and any deeds for any land dedicated to the county as part of the Master Plan for review and approval by the county attorney.

After the Final Plan and deed of dedication have been approved by both the Planning Director and the county attorney as being in conformity with this chapter and the Preliminary Master Plan, the Final Plan shall be approved for recordation and recorded. Thereafter, no modification may be made in any Final Plan except by an amended Final Master Plan submitted as provided for the original Final Master Plan.
(Ord. 12-16-15)

Sec. 22-7-6. Reserved.

Sec. 22-7-7. Additional land.

Additional land area may be added to an existing Residential Planned Community if it is adjacent, is not separated by a public road, and forms a logical addition to the existing

Residential Planned Community. The land must also be under the same ownership or control as the Residential Planned Community.

The procedure for an addition shall be the same as if an original application were filed, and all of the requirements of this Chapter shall apply.

Sec. 22-7-8. Permitted residential density.

Maximum gross residential density: 2.9 residential units per acre.

Sec. 22-7-9.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses
Conservation areas

Civic Uses
Public parks and recreational areas
Public uses

Commercial Uses
Bakeries
Butcher shops
Financial institutions
Home occupations
Medical clinics
Offices
Personal improvement services
Personal service establishments
Pharmacies
Restaurants, general
Restaurants, small
Retail stores, general
Retail stores, neighborhood convenience
Retail stores, specialty
Studios, fine arts

Miscellaneous Uses
Accessory uses

Greenhouses, non-commercial
Kennels, private
Marinas, private non-commercial
Utilities, minor

Residential Uses
Dwellings, accessory
Dwellings, multi-family
Dwellings, single-family attached
Dwellings, single-family detached
Dwellings, townhouse
Dwellings, two-family
Group homes
(Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-7-9.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Agricultural Uses
Equestrian facilities

Civic Uses
Educational facilities
Public assembly
Public recreation assembly
Religious assembly

Commercial Uses
Adult retirement communities
Assisted living facilities
Bed and breakfasts
Car washes
Daycare centers
Family daycare homes
Gas stations
Grocery stores
Hospitals
Hotels
Laundromats

Lodges
Nursing homes
Outdoor recreation facilities
Restaurants, fast food
Self-storage facilities
Taxidermists
Veterinary offices

Miscellaneous Uses
Telecommunication facilities
Utilities, major
(Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-7-10. Limitations.

(A) Commercial uses shall be located in "Village Centers" shown on the Final Master Plan and on the Final Plan, Village Centers shall be light commercial and office areas.

(B) The amount of commercial area will be determined by the approved Final Master Plan.

(C) The scale of the services provided in the Village Center shall be to provide neighborhood shopping and business convenience for nearby residential areas.

(D) No trailer parks, trailer camps, or trailer courts may be permitted.

(E) Uses in a Residential Planned Community shall be permissible only in the general location shown on the approved Master Plan as previously set forth.

Sec. 22-7-11. Building location and design requirements.

(A) The proposed location, arrangement, and design of nonresidential structures shall not be a detriment to the existing adjacent areas, and the prospective development of the Residential Planned Community. Therefore, structures shall be designed in a manner to facilitate the creation of a convenient, attractive and harmonious community.

(B) Open spaces between structures shall be protected where necessary by adequate covenants, conveyances, or dedications running with the land. The lot size, setback lines, lot coverage, width and frontage on the public street will be determined by the approved Master Plan.

Sec. 22-7-12. Recreation requirements.

Active Recreation facilities may be located within the required open space and shall be provided as follows unless specifically exempted by an approved proffer:

Group A

Bicycling, walking, fitness, and equestrian trails, open play area (minimum ½ acre), sitting area, picnic table units, tot lot equipment, community gardens that may be located within the required open space

Group B

Picnic shelter (3-4 picnic table units with grill), tennis court(s), multi-use court, active playground with equipment.

Group C

Community Center/Clubhouse/ Fitness Center, Indoor Swimming Pool, Athletic fields for private unorganized activities (Baseball, football/soccer) – minimum 2 acres

≤ 14 Residential Units	Group A - Choice of two or more Minimum of one acre of recreation area
15-60 Residential Units	Group A – Choice of two or more Group B – Choice of two or more Minimum of three acres of recreation area
61- 100 residential units	Group A – Choice of three Group B- Choice of three Minimum of six acres of active recreation
101 + residential units	Group A- Choice of three Group B – Choice of three Group C – Choice of one Minimum of eight acres of active recreation

(Ord. 12-16-15)

Article 8. Residential, Limited, District R-4.

Sec. 22-8-1. Statement of intent.

This district is composed of certain low to medium density concentrations of residential uses, together with certain complementary public, semi-public, institutional, commercial and recreational uses, all of which are intended to be at a scale appropriate to support the residential needs of the district. It is intended that this district be applied to the existing community of Lake Monticello and Community Planning Areas as defined by the Comprehensive Plan. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life and to permit certain related public, semi-public, institutional and recreational uses and certain commercial uses of a character compatible with such residential uses and which are unlikely to develop general concentrations of traffic, crowds of customers, and general outdoor advertising. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses.

Sec. 22-8-2. Use regulations.

In Residential District R-4, only one (1) main structure or use and its accessory uses shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.

Sec. 22-8-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses
Conservation areas

Civic Uses
Public parks and recreational areas
Public uses

Commercial Uses
Home occupations

Miscellaneous Uses
Accessory uses
Cluster developments
Greenhouses, non-commercial
Kennels, private

Marinas, private non-commercial
Utilities, minor

Residential Uses
Dwellings, accessory
Dwellings, multi-family
Dwellings, single-family attached
Dwellings, single-family detached
Dwellings, townhouse
Dwellings, two-family
Group homes
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-8-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Agricultural Uses
Equestrian facilities

Civic Uses
Educational facilities
Public assembly
Public recreation assembly
Religious assembly

Commercial Uses
Adult retirement communities
Assisted living facilities
Campgrounds
Daycare centers
Family daycare homes
Lodges
Marinas, commercial
Medical clinics
Offices
Outdoor recreation facilities
Restaurants, general
Restaurants, small
Retail store, neighborhood convenience

Retail store, specialty

Miscellaneous Uses
Telecommunication facilities
Utilities, major
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-8-3. Area and residential density regulations.

(A) The minimum lot area for permitted uses not utilizing central or public water and central or public sewerage systems shall be 87,120 square feet (2 acres). The maximum permitted residential density for such uses shall be one dwelling unit per two acres.

(B) The minimum lot area for permitted uses utilizing both central or public water and central or public sewerage systems shall be fifteen thousand (15,000) square feet. The maximum permitted residential density for such uses shall be two and nine-tenths (2.9) dwelling units per acre.

Sec. 22-8-4. Setback regulations.

Structures shall be located twenty-five feet (25’) or more from any street right-of-way. This shall be known as the "setback line."

Sec. 22-8-5. Frontage regulations.

(A) The minimum frontage of lots for permitted uses not utilizing central or public water and central or public sewerage system shall be two hundred feet (200’).

(B) The minimum frontage for permitted uses utilizing both central or public water and central or public sewerage systems shall be sixty feet (60’).

Sec. 22-8-6. Yard regulations.

(A) Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten feet (10’) on each side.

(B) Rear. Each main structure shall have a rear yard of twenty-five feet (25’) or more, and no accessory building shall be placed within twenty-five feet (25’) of any rear line.

Sec. 22-8-7. Special provisions for corner lots.

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

Sec. 22-8-8. Cluster alternative development.

Cluster development shall be permitted in any R-4 Residential District, subject to the following regulations:

(A) Gross residential density: 2.9 dwelling units per 1 acre.

(B) Minimum lot size: Seven thousand five hundred square feet.

(C) Minimum frontage required: 24 feet for each dwelling unit, exclusive of required setbacks and yards.

(D) Minimum lot width at minimum required setback shall be equal to minimum required frontage.

(E) Minimum setback required (as measured from edge of right-of-way): 30 feet.

(F) Minimum side yard:

(1) Single-family detached dwellings: 10 feet.

(2) All other residential uses: 20 feet between buildings and groups of attached units.

(G) Minimum rear yard: 25 feet.

(H) Open space required: Not less than 50% of gross site area, exclusive of road rights of way and other areas dedicated to public use, shall be set aside as open space.

(I) All lots in any cluster subdivision shall be served by a lawfully approved public or central water and sewerage system.

Sec. 22-8-9. Height regulations.

Buildings and structures may be erected up to thirty-five feet (35’) in height, except that:

(A) The height limit for dwellings may be increased up to forty-five feet (45') provided one foot (1') or more per side yard is added for each additional foot of building height over thirty-five feet (35').

(B) A public or semi-public building such as a school, place of worship, or library or general hospital may be erected to a height of sixty feet (60') from grade provided that required front, side, and rear yards shall each be increased one foot (1') for every foot in height over thirty-five feet (35').

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

(D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

Sec. 22-8-10. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

Sec. 22-8-11. Sign regulations.

Sign regulations shall conform with Article 15 of this Chapter.

Article 8.1. Reserved.

Article 9. Business, General, District B-1.

Sec. 22-9-1. Statement of intent.

Generally this district covers those areas of the county as defined by the Comprehensive Plan that are intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors

other than occasioned by incidental light and noise of congregation of people and passenger vehicles.

Sec. 22-9-2. Use Regulations.

In Business, General, District B-1, structures to be erected or land to be used shall be for one (1) or more of the following uses, together with ordinary and necessary accessory uses, and no others.
(Ord. 12-16-15)

Sec. 22-9-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Civic Uses
Amusements, public
Cultural services
Public recreation assembly
Public uses
Religious assembly
Sheltered care facilities

Commercial Uses
Assisted living facilities
Auction houses
Automobile repair service establishments
Automobile sales
Bakeries
Bed and breakfasts
Boarding houses
Butcher shops
Car washes
Cemeteries, commercial
Communications service
Corporate offices
Daycare centers
Financial institutions
Flea markets
Funeral homes
Garden center

Gas stations
Greenhouses, commercial
Grocery stores
Guidance services
Hospitals
Hotels
Indoor entertainment
Indoor recreation facilities
Laundries
Marinas, commercial
Medical clinics
Nursing homes
Offices
Parking facilities
Personal improvement services
Personal service establishments
Pharmacies
Professional schools
Recreational vehicle sales
Restaurants, fast food
Restaurants, general
Restaurants, small
Retail stores, general
Retail stores, large-scale
Retail stores, neighborhood convenience
Retail stores, specialty
Self-storage facilities
Shooting ranges, indoor
Studios, fine arts
Taxidermists
Vending carts
Veterinary offices

Miscellaneous Uses
Accessory uses
Utilities, minor
(Ord. 3-15-06; Ord. 11-20-07; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-9-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Civic Uses
Educational facilities
Public assembly

Commercial Uses
Amusements, commercial
Dance halls
Entertainment establishments, adult
Halfway houses
Kennels, commercial
Landscaping materials supply
Laundromats
Lodges
Manufactured home sales
Outdoor entertainment
Outdoor recreation facilities
Retail stores, adult
Transportation terminals

Industrial Uses
Contractor's storage yards
Lumberyards
Machine shops
Railroad facilities
Research laboratories

Miscellaneous Uses
Outdoor gatherings
Telecommunication facilities
Utilities, major

Residential Uses
Dormitories
(Ord. 3-15-06; Ord. 11-20-07; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-9-3. Requirements for permitted uses.

All buildings, structures and uses in the B-1 District shall be subject to the provisions of Article 23: Site Development Plans of this Code. (Ord. 12-16-15)

Sec. 22-9-4. Area regulations.

None, except for permitted uses utilizing individual sewerage disposal system. The required area for any such use shall be approved by the administrator who may consult with the health official.

Sec. 22-9-5. Setback regulations.

(A) Buildings shall be located not less than fifty feet (50') from any public right-of-way. This shall be known as the "setback line." All parking lots shall be located not less than twenty-five feet (25') from any public right-of-way.

(B) A variation to the setback regulations may be granted by the Planning Commission for projects in a designated growth area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan. Appeals must be received in writing within thirty (30) days of the variation decision, and will then be forwarded to the Board of Supervisors for a final determination.
(Ord. 5-4-11)

Sec. 22-9-6. Yard regulations.

The minimum yard requirements for permitted uses adjoining or adjacent to a residential or agricultural district shall be fifty feet (50'). All parking lots and accessory uses shall be located not less than twenty-five feet (25') from any residential or agricultural district.

Sec. 22-9-7. Height regulations.

Buildings may be erected up to forty-five feet (45') in height from grade, except that:

(A) A public or semi-public building such as a school, place of worship, library, hotel and general hospital may be erected to a height of sixty feet (60') from grade provided that required front, side and rear yard each shall be increased one foot (1') for each foot in height over forty-five feet (45').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials sixty feet (60') limit. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

Sec. 22-9-8. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

Sec. 22-9-9. Sign regulations.

Sign regulations shall conform to Article 15 of this Chapter.

Sec. 22-9-10. Sidewalks.

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. (Ord. 5-4-11)

Article 10. Business, Convenience, District B-C.

Sec. 22-10-1. Statement of intent.

This district is for those areas of the county, adjacent to residential and/or agricultural areas, where it is in the public interest to establish retail and service businesses of a type which are ordinarily and necessarily convenient to and designed primarily to serve adjacent residential uses and which are not characterized either by trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than those occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail convenience stores, banks, business and professional offices and service stations.

Sec. 22-10-2. Use regulations.

In Business District B-C, structures to be erected or land to be used shall be for one (1) or more of the following retail sales and/or service uses.

Sec. 22-10-3. Uses permitted by right.

The following uses shall be permitted by right:

Civic Uses
Amusements, public
Cultural services
Public uses

Commercial Uses

Bakeries
Bed and breakfasts
Butcher shops
Daycare centers
Financial institutions
Funeral homes
Garden center
Gas stations
Greenhouses, commercial
Grocery stores
Medical clinics
Offices
Parking facilities
Personal service establishments
Pharmacies
Restaurants, fast food
Restaurants, general
Restaurants, small
Retail stores, general
Retail stores, neighborhood convenience
Retail stores, specialty
Studios, fine arts
Taxidermists
Vending carts

Miscellaneous Uses

Accessory uses
Utilities, minor

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-10-4. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Civic Uses

Educational facilities
Religious assembly
Sheltered care facilities

Commercial Uses

Amusements, commercial
Auction houses
Automobile repair service establishments
Car washes
Communications service
Dance halls
Guidance services
Hotels
Kennels, commercial
Landscaping materials supply
Laundromats
Laundries
Lodges
Personal improvement services
Professional schools
Self-storage facilities
Veterinary offices

Miscellaneous Uses

Outdoor gatherings
Telecommunication facilities
Utilities, major

Residential Uses

Dormitories

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-10-5. Requirements for permitted uses.

All buildings, structures and uses in the B-C District shall be subject to the provisions of Article 23: Site Development Plans of this Code. (Ord. 12-16-15)

Sec. 22-10-6. Area regulations.

None, except for permitted uses utilizing individual sewerage disposal system. The required area for any such use shall be approved by the administrator who may consult with the health official.

Sec. 22-10-7. Setback regulations.

(A) Buildings shall be located not less than fifty feet (50’) from any public right-of-way. This shall be known as the "setback line." All parking lots shall be located not less than twenty-five feet (25’) from any public right-of-way.

(B) A variation to the setback regulations may be granted by the Planning Commission for projects in a designated growth area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan. Appeals must be received in writing within thirty (30) days of the variation decision, and will then be forwarded to the Board of Supervisors for a final determination.
(Ord. 5-4-11)

Sec. 22-10-8. Yard regulations.

The minimum yard requirements for permitted uses adjoining or adjacent to a residential or agricultural district shall be fifty feet (50’). All parking lots and accessory uses shall be located not less than twenty-five feet (25’) from any residential or agricultural district.

Sec. 22-10-9. Height regulations.

Buildings may be erected up to thirty-five feet (35’) in height from grade, except that:

(A) Any building otherwise permitted may be erected to a height of forty-five feet (45’) feet from grade and a public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60’) from grade; provided, in any such case, that required setback and side and rear yards each shall be increased one foot (1’) for each foot in height over thirty-five feet (35’).

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are exempt. Parapet walls may be up to four feet (4’) above the height of the building on which the walls rest.

Sec. 22-10-10. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

Sec. 22-10-11. Sign regulations.

Sign regulations shall conform to Article 15 of this Chapter.

Sec. 22-10-12. Special provisions for accessory uses and structures.

Uses and structures which are customarily accessory and clearly incidental shall be permitted, provided establishment of the same shall not be permitted until construction has commenced on the principal building or the principal use has been established.

Sec. 22-10-13. Sidewalks.

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. (Ord. 5-4-11)

Article 11. Industrial, Limited, District I-1.

Sec. 22-11-1. Statement of intent.

The primary purpose of this district is to permit certain light industries. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential property while permitting certain light industries to locate near a labor supply.

Sec. 22-11-2. Use regulations.

In Industrial, Limited, I-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others. (12-16-15)

Sec. 22-11-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Civic Uses
Public uses

Commercial Uses
Automobile repair service establishments
Automobile sales
Car washes
Communications service

Corporate offices
Financial institutions
Flea markets
Gas stations
Landscaping materials supply
Laundries
Medical clinics
Offices
Parking facilities
Professional schools
Recreational vehicle sales
Retail stores, general
Retail stores, large-scale
Retail stores, neighborhood convenience
Retail stores, specialty
Self-storage facilities
Shooting ranges, indoor
Transportation terminals
Vending carts
Veterinary offices

Industrial Uses

Contractor's storage yards
Lumberyards
Machine shops
Manufacturing, light
Railroad facilities
Research laboratories
Sawmills, temporary
Solid waste collection facilities
Upholstery shops
Wholesale warehouses

Miscellaneous Uses

Accessory uses
Utilities, minor
Woodstorage, temporary

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-11-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Commercial Uses

Amusements, commercial
Auction houses
Manufactured home sales
Outdoor entertainment
Outdoor recreation facilities
Restaurants, fast food
Shooting ranges, outdoor

Industrial Uses

Manufacturing, medium
Sanitary landfills
Sawmills, permanent
Solid waste material recovery facilities
Truck terminals

Miscellaneous Uses

Aviation facilities
Outdoor gatherings
Telecommunication facilities
Utilities, major

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

Sec. 22-11-3. Requirements for permitted uses.

(A) Before a zoning permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the applicant for the proposed use shall comply with the provisions of Article 23 of this Chapter.

(B) Screening from adjacent business, residential and agricultural district shall be required.

(C) Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

Sec. 22-11-4. Area regulations.

None, except for permitted uses utilizing individual sewerage disposal system. The required area for any such use shall be approved by the administrator who may consult with the health official.

Sec. 22-11-5. Setback regulations.

Buildings and accessory uses shall be located not less than one hundred feet (100') from any street right-of-way and all parking lots shall be located not less than fifty feet (50') from any street right of way except that:

(A) Buildings and accessory uses may be located less than one hundred feet (100'), but not less than fifty feet (50'), from a street right-of-way, provided that said street:

(i) is an access road within a subdivision for business or industrial uses and serves properties that contain industrial zoning district classifications only;

(ii) is a cul-de-sac or an interior road; and

(B) All parking lots shall be located not less than twenty-five feet (25') from any street right of way.

This shall be known as the "building setback line."
(Ord. 12-19-07)

Sec. 22-11-6. Yard regulations.

When permitted uses adjoin agricultural, residential, or business districts the minimum yard requirements shall be fifty feet (50'). All parking lots shall be located not less than twenty-five feet (25') from any residential or agricultural district.

Sec. 22-11-7. Height regulations.

Buildings may be erected up to forty-five feet (45') in height from grade, except that:

(A) A public or semi-public building may be erected to a height of sixty feet (60') from grade provided that required front, side and rear yard each shall be increased one foot (1') for each foot in height over forty-five feet (45').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials sixty feet (60') limit. Parapet walls may be up to four feet (4') feet above the height of the building on which the walls rest.

Sec. 22-11-8. Coverage regulations.

Impervious surface may cover up to eighty percent (80%) of the area of the lot.

Sec. 22-11-9. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

Sec. 22-11-10. Sign regulations.

Sign regulations shall conform with Article 15 of this Chapter.

Sec. 22-11-11. Sidewalks.

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

Exceptions approved by the Planning Commission for locating sidewalks along road frontage may be acceptable with the placement of a trail network or greenway on the property providing sufficient pedestrian circulation.
(Ord. 5-4-11)

Article 12. Industrial, General, District I-2.

Sec. 22-12-1. Statement of intent.

The primary purpose of this district is to establish an area as defined by the Comprehensive Plan where the principal use of land is for heavy commercial and industrial operations, which may create some nuisance, and which are not properly associated with, nor particularly compatible with, residential, institutional, and neighborhood commercial service establishments. The specific intent of this district is to:

(A) encourage the construction of and the continued use of the land for heavy commercial and industrial purposes;

(B) prohibit residential and neighborhood commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district;

(C) to encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this ordinance.

Sec. 22-12-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Civic Uses
Public uses

Commercial Uses
Corporate offices
Transportation terminals

Industrial Uses
Contractor's storage yards
Lumberyards
Machine shops
Manufacturing, light
Manufacturing, medium
Railroad facilities
Research laboratories
Sawmills, permanent
Sawmills, temporary
Solid waste collection facilities
Truck terminals
Upholstery shops
Wholesale warehouses

Miscellaneous Uses
Accessory uses
Utilities, major
Utilities, minor
Woodstorage, temporary
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-12-2.2. Uses permitted by special use permit.

The following uses shall be permitted by special use permit only:

Commercial Uses
Manufactured home sales
Medical clinics
Offices
Shooting ranges, indoor
Shooting ranges, outdoor

Industrial Uses
Manufacturing, heavy
Petroleum distribution facilities
Resource extraction
Salvage and scrap yards
Sanitary landfills
Slaughterhouses
Solid waste material recovery facilities

Miscellaneous Uses
Aviation facilities
Telecommunication facilities
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

Sec. 22-12-3. Requirements for permitted uses.

(A) Before a zoning permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the applicant for the proposed use shall comply with the provisions of Article 23 of this Chapter.

(B) Screening from adjacent business, residential and agricultural district shall be required.

(C) Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

Sec. 22-12-4. Area regulations.

For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary.

Sec. 22-12-5. Setback regulations.

Buildings shall be located not less than two hundred feet (200') from any street right-of-way. This shall be known as the "setback line."

Sec. 22-12-6. Yard regulations.

When permitted uses adjoin agricultural, residential, or business districts the minimum yard requirements shall be fifty feet (50').

Sec. 22-12-7. Height regulations.

Buildings may be erected up to forty-five feet (45') in height from grade, except that:

(A) A public or semi-public building such as a school, place of worship, library, hotel and general hospital may be erected to a height of sixty feet (60') from grade provided that required front, side and rear yard each shall be increased one foot (1') for each foot in height over forty-five feet (45').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

Sec. 22-12-8. Coverage regulations.

Buildings or groups of buildings with their accessory buildings may cover up to sixty percent (60%) of the area of the lot. Additional coverage may be permitted by the governing body.

Sec. 22-12-9. Off-street parking.

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter. (Ord. 12-16-15).

Sec. 22-12-10. Sign regulations.

Sign regulations shall conform with Article 15 of this Chapter.

Sec. 22-12-11. Sidewalks.

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

Exceptions approved by the Planning Commission for locating sidewalks along road frontage may be acceptable with the placement of a trail network or greenway on the property providing sufficient pedestrian circulation.
(Ord. 5-4-11)

Article 13. Manufactured Home Park, District MHP.

Sec. 22-13-1. Statement of intent.

This district is intended to accommodate manufactured home parks with lots for rent exclusively. This district is based on the premise that the demand for manufactured homes can best be supplied by manufactured home parks. The following regulations are designed to provide an attractive and harmonious environment for manufactured home dwellings, with all amenities normally found in a substantial residential neighborhood. (Ord. 12-16-15)

Sec. 22-13-2.[7] Use regulations.

In Manufactured Home Park, District MHP, only one mobile or manufactured home and its accessory uses and structures shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for some combination of the following uses. Manufactured homes used pursuant to this section shall comply with the Flood Protection subsection of this Chapter found in Section 22-17-8A et seq. (Ord. 3-15-06; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 12-16-15)

Sec. 22-13-2.1. Uses permitted by right.

The following uses shall be permitted by right:

[7] Editor's Note – This section as originally adopted was misnumbered as "Sec. 22-13-1." This clerical error has been corrected by the editor.

Civic Uses
Public uses

Commercial Uses
Home occupations

Miscellaneous Uses
Accessory uses
Utilities, minor

Residential Uses
Manufactured homes
(Ord. 11-3-10)

Sec. 22-13-2.2. Uses permitted by special use permit only.[8]

The following uses shall be permitted by special use permit only:

Miscellaneous Uses
Utilities, major
(Ord. 11-3-10)

Sec. 22-13-3. Area regulations.

(A) The minimum area for each manufactured home park shall be five (5) acres. (Minimum number of spaces completed and ready for occupancy before first occupancy is permitted shall be ten (10)).

(B) Area. The minimum lot area of each individual manufactured home lot shall be six thousand (6000) square feet.
(Ord. 12-16-15)

Sec. 22-13-4. Setback regulations.

(A) Manufactured home parks shall be located fifty feet (50') or more from any street right-of-way but not less than seventy-five feet (75') from the center line of the street. Lots fronting streets within manufactured home parks (interior lots) shall conform with

[8] Editor's Note – conformed to title convention of this Code by the Editor.

subsection (B) below. The foregoing notwithstanding, every manufactured home within any such manufactured home park shall be set back from any abutting public road not less than the setback required for the property abutting the manufactured home park across such public road.

(B) No manufactured home lot shall be placed less than twenty-five feet (25') from any adjoining property line.

(C) No manufactured home shall be placed less than ten feet (10') from any lot or within twenty-five feet (25') of another manufactured home.
(Ord. 12-16-15)

Sec. 22-13-5. Frontage regulations.

The minimum frontage for each manufactured home lot shall be sixty feet (60') with a minimum thirty feet (30') street frontage. (Ord. 12-16-15)

Sec. 22-13-6. Required improvements within lots.

(A) Markers for manufactured home lots. Every manufactured home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan submitted so that each lot may be easily identified.

(B) Streets. All streets, both public and private, serving manufactured home lots, shall conform to the construction standards of the Virginia Department of Transportation. Curb and gutters are encouraged; however, in the event that they are not provided, adequate drainage facilities shall be provided.

(C) Parking spaces. In each manufactured home park, parking spaces shall be provided at the rate of at least two (2) car spaces for each manufactured home lot. Space for one (1) car of the required two (2) car spaces shall be provided upon the lot, but if not so provided, in parking bays located convenient to such lots. Each such parking space shall be not less than ten feet (10') wide and twenty feet (20') deep, shall be surfaced for its entire area with a durable, hard surface material, suitable for all weather use, and shall have unobstructed access to a public street or highway. No parking space shall be more than three hundred feet (300') from the manufactured home lot which it serves.

(D) Water supply. An adequate supply of water approved by the State Health Department shall be furnished from a public water supply system or from a central water system conforming to all applicable laws, regulations, resolutions, and ordinances, with water

connections located on each manufactured home lot. No drinking water containers or fountains shall be located in any room housing toilet facilities. All water lines shall be made frost-free.

(E) Sewerage facilities. In each manufactured home park, all waste or waste water from a faucet, toilet, tube, shower, sink, slop-sink, drain, washing machine, garbage disposal unit or laundry shall empty into one or more public or central sewer systems approved by the Fluvanna County Health Department.

(F) Garbage and trash disposal. Each lot within a manufactured home park shall be provided with at least one (1) tight-fitting, closed-top garbage or trash container, and collection and disposal shall be provided at a frequency to assure it will not overflow.

(G) Lighting and electric receptacle outlets. Public areas of manufactured home parks shall be adequately lighted so as to permit safe movement of vehicles and pedestrians at night. All exterior lights in each park shall be located and when necessary shielded so as to prevent direct illumination of sleeping areas. At least one (1) grounded type receptacle outlet shall be provided each lot.

(H) Utilities. All utility service shall be underground to each lot.

(I) Recreational areas. There shall be provided a minimum of 30,000 square feet of recreational area, exclusive of required setback and yard requirements, per each thirty (30) manufactured home lots or multiple or fraction thereof.

(J) Additions to manufactured homes. No permanent or semi-permanent structure shall be affixed to any manufactured home as an addition to such manufactured home. The prohibition herein against any addition or accessory to a manufactured home shall not apply to a canopy or awning designed for use with a manufactured home, nor to any expansion unit or accessory structures specifically manufactured for manufactured homes. The lot coverage of a manufactured home, together with an expansion or accessory structure permitted thereto by this article shall not exceed twenty percent (20%) of the total manufactured home lot area.

(K) Height regulations. No manufactured home shall exceed fourteen feet (14’) in height nor shall any storage facility or other accessory structure exceed the height of any manufactured home which it serves. Utilities, television antennae and radio aerials are exempt.

(L) Manufactured home standards. Every manufactured home occupied as a dwelling unit in Fluvanna County shall meet the minimum standards of the Virginia Manufactured Home Safety Regulations and shall have been manufactured under the

authority of the National Manufactured Home Construction and Safety Standards Act, as the same shall be in effect from time to time.

(M) Anchorage. Every parking space for manufactured homes shall be provided with devices for anchoring the unit to prevent overturning or uplift. The anchorage shall be adequate to withstand wind forces and uplift as required for buildings and structures in the Virginia Uniform Statewide Building Code.
(Ord. 12-16-15)

Sec. 22-13-7. Site plan required.

Each manufactured home park shall be subject to the provisions of Article 23: Site Development Plans of this Chapter. (Ord. 12-16-15)

Article 14. Planned Unit Development District (PUD).

Sec. 22-14-1. Statement of intent.

Planned unit developments (PUDs) are intended to promote the efficient use of land by allowing flexibility in design standards and variety in densities and land uses to preserve the rural areas of the county. Development of such districts shall be in accordance with an approved PUD Application Package which should provide a variety and range of uses and densities in designated areas of the site.

Planned unit developments should be located within the designated growth areas of the county as set forth in the comprehensive plan, and should implement the goals of each Community Planning Area. Planned unit developments should provide unified development that incorporates new urbanism and traditional neighborhood development principles, which includes a mix of residential and commercial uses, an interconnected system of internal roads, pedestrian sidewalks and walkways and well planned access points along existing roadways. In addition to a mix of residential and commercial uses, planned developments should also provide a mix and variety of housing types.

The PUD District is intended to be applied to privately initiated zoning map amendments for land located within the County's Community Planning Areas (CPAs) and the designated Zion Crossroads Urban Development Area (UDA). The Zion Crossroad UDA is located internal to the Zion Crossroads Community Planning Area, as depicted on the Future Land Use Map, as amended. The County's designated CPAs and UDA include:

(a) Zion Crossroads Community Planning Area
(b) Zion Crossroads Urban Development Area

(c) Rivanna Community Planning Area
(d) Palmyra Community Planning Area
(e) Fork Union Community Planning Area
(f) Columbia Community Planning Area
(g) Scottsville Community Planning Area

(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-2. Procedure for rezoning.

(1) Prior to submitting an official rezoning application for a PUD, the applicant shall schedule a pre-application meeting with the Planning Director for an introductory work session to discuss the key elements and impacts of the proposed project.

The Planning Director and other county agency representatives may provide specific guidance on: (a) application requirements, (b) timeframe for processing of the zoning map amendment application, (c) Comprehensive Plan compliance considerations, (d) identification issues related to public infrastructure and facilities, and (e) other matters as may be uniquely related to the applicant's property.

At this meeting, the applicant shall present a preliminary sketch plan and other exhibits that depict the following: (a) general boundary and location of property subject to the PUD rezoning application, (b) land area to be contained within the PUD District, (c) graphic representation of the arrangement of interior sub-areas, (d) planned mix of land uses and densities, and (e) general approach to addressing transportation, infrastructure and community facilities.

(2) After the pre-application meeting with staff, the applicant shall submit an application for rezoning with the Fluvanna County Planning Department. The PUD Application Package shall consist of the following primary sections: a narrative, an existing conditions map, a PUD Application Plan, a transportation plan, street design guidelines, lot development criteria, community design guidelines, and a traffic impact analysis.

(i) PUD Application Package Narrative

a) A general statement of objectives to be achieved by the PUD district including a description of the character of the proposed development and the market for which the development is oriented;

b) A list of all adjacent property owners;

c) Site and lot development standards, including but not limited to mix of land uses, density for individual residential land uses, floor area

ratios for non-residential uses, building setbacks and yard regulations, maximum heights, maximum project density, and lot coverage;

d) Proposed utilities and implementation plan, including documentation of adequate public facilities;

e) Phased implementation plan;

f) Comprehensive signage plan;

g) Descriptions of any architectural and community design guidelines including but not limited to a code of development, building designs, orientations, styles, lighting, etc.;

h) Specific proffers and conditions (if proposed).

(ii) Existing Conditions Map

a) Topography, including the identification of steep slopes (>20%), to be prepared with minimum 2' contour elevations and 100' horizontal scale, and current boundary survey of the property subject to the PUD district;

b) Water features, including existing stream buffers and stormwater or erosion control measures;

c) Roadways;

d) Structures;

e) Tree lines;

f) Major utilities;

g) Significant environmental features, including unsuitable soils for land development purposes, wetlands, and FEMA designated 100-year floodplains;

h) Existing and proposed ownership of the site along with all adjacent property owners;

i) Zoning of the site and adjacent properties;

j) Locations of public improvements and facilities, including rights of way and easements, as may be recognized by the Comprehensive Plan, the Future Land Use Map, the Official Transportation Map, or state transportation plans, as may be applicable.

(iii) PUD Application Package

The PUD Application Package shall include a PUD Application Plan (master plan) to be prepared to a horizontal scale of 1”=100’ or as otherwise may be approved by the Planning Director to be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed planned unit development (PUD) district. At a minimum, the PUD Application Plan shall include the following:

a) Proposed PUD master plan layout and supporting land use documentation (tables, charts, etc.) for all proposed land uses within the PUD district, including the general location of uses, types of uses, mix of uses, lot types, density range of uses, and floor area ratio ranges;

b) Methods of access from existing state maintained roads to proposed areas of development;

c) General street alignments and parking areas, including proposed street sections and standards;

d) General alignments of sidewalks, bicycle and pedestrian facilities;

e) Schematic utility plans, indicating the infrastructure and facilities to serve the development, including but not limited to: water, sewer and storm drainage improvements, pump stations, treatment facilities, offsite improvements as needed, electrical substations, etc.;

f) A general plan showing the location and acreage of the active and passive recreation spaces, parks, civic areas, and other public open areas;

g) A general overall landscaping layout that includes methods of screening and buffering from adjacent properties and existing public right-of-ways, as well as stream buffers;

h) A general stormwater management and best management practices master plan that includes how negative impacts to nearby streams, wetlands, surface water, and groundwater resources as a result of development would be avoided and mitigated;

i) Phased development areas. Subsequent subdivision plats and site plans should be closely correlated with master plan phases;

j) A schematic grading plan for the area of the PUD property proposed for development, with finished grades to be prepared at a 5' contour interval;

k) Documentation and plan demonstrating general compliance with VDOT State Secondary Street Acceptance requirements and other requirements for public streets and intersections.

Planned Unit Development Master Plan

(iv) Traffic Impact Analysis

a) The Planning Director shall determine whether or not the subject PUD District project shall require a traffic impact statement to be prepared consistent with VDOT 527 regulations.

b) If a 527 traffic impact analysis is required, the Applicant shall prepare and submit a Pre-Scope of Work Meeting Form to the county on or before the date of formal submission of the zoning district amendment application. The Pre-Scope form shall be processed, reviewed by and between the county, VDOT and the Applicant in accord with adopted regulations and procedures.

c) If a 527 Traffic Impact Analysis is not required, the Applicant shall meet with the Planning Director to determine the required scope for a traffic analysis for the PUD project. The Planning Director shall approve the elements to be addressed in the study scope. The traffic analysis shall be submitted with the zoning amendment application. Minimum requirements may include the following:

1) Existing traffic counts (AM and PM peak hour) at intersections to be identified by the county;

2) Trip generation estimates for the planned land uses within the proposed development, employing Institute of Transportation Engineers (ITE) methodologies;

3) Trip distribution and assignments to the existing road network of traffic projected for the development at full-buildout;

4) Estimates of background traffic growth on impacted streets and highways;

5) Analysis of future conditions, to include Highway Capacity Manual (HCM) level-of-service calculations for impacted intersections;

6) Signal warrants analysis;

7) Statement of recommended transportation improvements to provide adequate levels of service for the traffic generated by the

proposed project.

(3) The PUD application package shall not be scheduled for consideration by the Planning Commission until the Planning Director has determined that the package is complete. Except as the Planning Director may determine otherwise in a particular case, for reasons beyond the control of the applicant, any application package which is not complete within thirty (30) days after its submission shall be deemed to have been withdrawn and shall not be further processed. Once the Planning Director has determined the application package to be complete, the following process shall commence:

(i) The Planning Commission shall receive a public presentation on the proposed development at a regularly scheduled meeting, prior to advertising for a public hearing;

(ii) The Planning Commission may schedule one or more work sessions to discuss the proposed development;

(iii) Once a public hearing has been conducted by the Planning Commission, a recommendation shall be forwarded to the board of supervisors for their consideration;

(iv) The board of supervisors may schedule one or more work sessions to discuss the proposed development and the Planning Commission recommendation, prior to conducting their public hearing;

(v) The plan approved by the board of supervisors shall constitute the final master plan for the PUD district.

(4) All conditions and elements of the plan as submitted, including amendments and revisions thereto, shall be deemed to be proffers once the Board of Supervisors has approved the final master plan. All such conditions and elements shall be enforceable by the county pursuant to Section 22-17-9 of this Code.

(5) The approved final master plan shall serve as the sketch plans for the subdivision and site plan process.

(6) Prior to development of the site, a final site development plan pursuant to Article 23[9] of the zoning ordinance, shall be submitted for administrative review and approval for any business, limited industrial, or multi-family development.

(7) Additionally, if any land within the district is to be subdivided, preliminary and final subdivision plats pursuant to the subdivision regulations of Chapter 19 of the Fluvanna County Code shall be submitted for administrative review and approval prior to development of the site. Staff will determine if the submitted preliminary plats are in accordance with the approved final master plan.

(8) If staff determines that the preliminary or final subdivision plats or final site plan are not in accord with the approved final master plan, such plans will be sent to the Planning Commission for review. If the Planning Commission determines that such plans are not in accord with approved final master plan, the applicant shall then submit sketch plans for review and approval by the Planning Commission. The sketch plans shall either be in accord with the approved final master plan, or a master plan amendment shall be applied for, in which case the amendment procedure set out in the zoning ordinance shall be followed.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-3. Character of development.

The goal of the PUD district is to allow for and encourage development that incorporates new urbanism principles which includes:

(1) Pedestrian orientation;

(2) Neighborhood friendly streets and paths;

(3) Interconnected streets and transportation networks;

(4) Parks, recreation improvements, and open space as amenities;

[9] Editor's Note – conformed to numbering convention of this code by the Editor. Appears as "Article 22-23" in the original.

(5) Neighborhood centers and civic space;

Planned Unit Development

(6) Buildings and spaces of appropriate scale;

(7) Relegated parking;

(8) Mixture of uses and use types;

(9) Mixture of housing types and affordability;

(10) Clear boundaries with any surrounding rural areas;

(11) Environmentally sensitive design (i.e., sustainability and energy efficiency);

(12) Adequate public facilities and infrastructure to serve the community.

An application is not necessarily required to possess every characteristic of the PUD district as delineated above in order to be approved. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-4. Uses permitted by-right.

In the PUD district, all uses permitted by-right in the residential (R-1, R-2, R-3 and R-4), business (B-1 and B-C) and limited industrial (I-1) zoning districts may be permitted as

enumerated in the final PUD application package. Uses not specified within the PUD application package shall not be permitted. (See Planning Staff for matrix for use by applicant to designate proposed by-right land uses to be included in the PUD district. The applicant's completed table shall be established as a condition of approval of the PUD Application Package.) (Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-5. Uses permitted by special use permit.

One or more of the uses permitted by special use permit in the residential and business zoning districts may be permitted in the PUD district, as enumerated in the final PUD application package, upon issuance of a special use permit by the board of supervisors. Uses not specified within the PUD application package shall not be permitted. (See Planning Staff for a matrix for use by applicant to designate proposed special use permit uses to be included in the PUD district. The applicant's completed table, including special conditions imposed during the zoning application process, shall become an element of the PUD application package.) (Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-6. Minimum area required for a planned unit development.

(1) PUD districts shall be located on a single parcel of land or separate but contiguous parcels which are, or proposed to be, under common ownership, subject to approval of the rezoning application. The minimum area required for a PUD district shall be as follows:

(i) Zion Crossroads Community Planning Area: 20 acres

(ii) Zion Crossroads Urban Development Area (applicable to a PUD district application on designated UDA land located within the Zion Crossroads CPA): no minimum area required.

(iii) Rivanna Community Planning Area: 10 acres

(iv) Palmyra Community Planning Area: 5 acres

(v) Fork Union Community Planning Area: 5 acres

(vi) Columbia Community Planning Area: 5 acres

(vii) Scottsville Community Planning Area: 5 acres

(2) Additional land area may be added to an established PUD district if it is adjacent to and forms a logical addition to the approved development. The procedure for an addition shall be the same as if an original PUD zoning amendment application was filed, and the requirements of this article shall apply, except the minimum acreage requirement.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-7. Open space, recreation, parks and civic areas.

(1) In the Community Planning Areas, not less than thirty percent (30%) of the gross area of a PUD district shall be preserved as open space, provided that supplemental regulations for application to the Zion Crossroads UDA apply as indicated herein below. The required thirty percent (30%) open space may include private common and public open areas; perimeter open space; buffers between various uses, densities and adjacent properties; recreational space, neighborhood parks, civic areas; easements; water bodies and any undisturbed land not occupied by building lots, structures, streets, and parking lots. By way of this Section, yards of individual residences shall not be considered open space.

(2) Land designated for future facilities (i.e. schools, fire and rescue stations, places of worship, daycare centers, etc.) shall not be included toward the open space.

(3) Not less than fifteen percent (15%) of the total open space shall be provided for active and/or passive recreational activities.

Open Space

(4) Private common open areas shall be owned, maintained and operated by a property owner's association. A property owner's association document shall be prepared declaring and specifying the care and maintenance of the common areas. This document shall be reviewed and approved by the Fluvanna County Attorney prior to final approval.

(5) Upon request of the Applicant, the Planning Commission, at its sole discretion, (a) may decrease or eliminate certain requirements for open space and recreation land and improvements in a PUD District project, provided that the revised regulations shall be established and conditioned by the PUD Application Package.

(6) For PUD projects in the Zion Crossroads UDA that are less than fifteen (15) acres in gross area, the Applicant may contribute to a pro-rata share fund lieu of provision for

all or a portion of the required open space. The county shall reserve and employ these funds for the purpose of community open space, park, recreation, or civic space development within the Zion Crossroads Community Planning Area.

(7) For PUD projects in the Zion Crossroads UDA with a gross area of fifteen (15) acres or greater, the quantity, location, mix, type, quality and phasing of open space, civic space, parks, recreation areas, buffer areas, and protected natural areas shall be consistent with the policies of the Comprehensive Plan or other criteria for traditional neighborhood development as may be established by the County. These areas shall be delineated on the PUD Application Plan and may include greens, squares, plazas, community centers, club houses, swimming facilities, outdoor recreational fields, trails, pocket parks, or community gardens.

(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-8. Density.

(1) The maximum residential base density permitted for individual land uses to be located in the PUD districts shall be as follows in Table 1 below.

(2) The allowable density for individual uses within the PUD District shall be calculated based on the Net Acreage of the land subject to the PUD zoning amendment application. The calculation of minimum and maximum yield for individual uses shall be based on the application of the minimum and maximum density for each use (see Table 1) to an adjusted Net Acreage. The Net Acreage reduces the gross area of the PUD land by the total of the non-qualifying land components within property. The Net Acreage = Gross Acreage - Non-Qualifying Area (acreage of the sum of the Non-Qualifying land components.) The components that comprise the Non-Qualifying areas include:

- area of existing dedicated public rights of way and easements
- areas depicted on an adopted Official Transportation Map for future public improvements,
- area of existing land uses and structures, including platted lots, that are intended to remain as a part of the PUD project,
- areas deemed unbuildable due to geological, soils, or other environmental deficiencies,
- areas of wetlands and floodplains (as defined by FEMA 100-year floodplain or engineering study),

- area of existing ponds, stormwater management facilities, and water features that are not defined as wetlands or floodplains, and
- area of terrain with slopes in excess of thirty percent (30%).

PUD District Density Regulations								
Community Planning Area	**Minimum & Maximum Density** Dwelling Units per acre for Residential – Floor Area Ratio for Commercial							
	Single Family		**Townhouses**		**Multifamily**		**Commercial**	
	min.	max.	min.	max.	min.	max.	min.	max.
Zion Crossroads Community Planning Area		6		9		16		
Zion Crossroads Urban Development Area	4	6	6	9	12	16	0.4	
Rivanna Community Planning Area		4		6		12		
Palmyra Community Planning Area		4		6		12		
Fork Union Community Planning Area		4		6		12		
Columbia Community Planning Area		4		6		12		
Scottsville Community Planning Area		4		6		12		

Table 1: PUD Density Regulations

(3) An increase in the maximum residential density for a PUD district may be permitted in the following instances:

Open Space:

If 50% or more of the gross area of a PUD is preserved as open space, then a 20% increase in density may be permitted. If 75% or more of the gross area of a PUD is preserved as open space, then a 30% increase in density may be permitted.

Affordable Housing (as defined in the Comprehensive Plan):

If between 10% and 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 20% increase in density may be permitted. If more than 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 30% increase in density may be permitted.

Open Space and Affordable Housing:

Density bonuses may also be permitted with a combination of both open space and affordable housing. The increase in density that may be permitted shall be based on the following combinations of open space and affordable housing:

Open Space Provided	**Affordable Housing Provided**	**Density Bonus Permitted**
50%	10-15%	35%
50%	>15%	45%
75%	10-15%	40%
75%	>15%	50%

Transfer/Purchase of Development Rights:

(Reserved for future Transfer of Development Rights/Purchase of Development Rights density bonuses)

(Ord. 8-5-09; Ord. 11-16-11; Ord. 12-16-15)

Sec. 22-14-9. Setbacks.

(1) Minimum setbacks and yard regulations for each planned land use within the PUD district shall be specifically enumerated in a table to be included in the PUD Application Package.

(2) Lots at the perimeter of the PUD district shall conform to the setback requirements of the adjoining district, or to the setback requirements of the planned district, whichever is greater.

(3) Refer to the Comprehensive Plan for illustrative examples of residential lot types for traditional neighborhood development projects.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-10. Streets.

(1) Streets within the PUD district may be either public or private, but shall conform to VDOT road design standards. Private subdivision streets shall be permitted in accordance with the provisions of Sec. 19-18-1(C) of this Code.

(2) Alleys may be allowed within the PUD district provided they conform to either VDOT design standards or as otherwise prescribed in the master plan.

(3) Sidewalks shall generally be provided on both sides of any streets, public or private, within the PUD district. Sidewalks shall conform to VDOT standards.

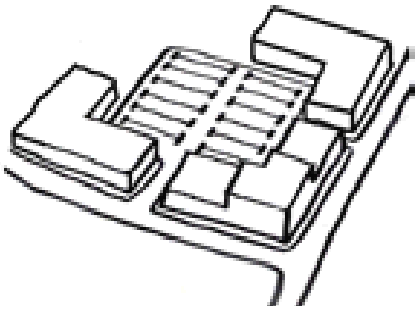
(4) Traffic access and circulation within the PUD district shall be designed to provide safe accommodation of all users of the transportation network including pedestrians and bicyclists. Sidewalks, bicycle lanes and multi-use trails shall be provided where appropriate. Mixed-use areas of the development shall be designed to give priority to pedestrian and bicycling traffic.

(5) Internal streets within the PUD district shall be permitted to intersect with existing public streets to the extent necessary. Such intersections shall provide reasonable access and service to uses contained within the development and shall be developed using VDOT principles of access management.

(6) Refer to the Comprehensive Plan for illustrative examples of residential streets for traditional neighborhood development projects.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-11. Parking.

(1) Off-street parking facilities in mixed-use, business, industrial, and multi-family residential areas shall generally be relegated behind the front building line.



Relegated Parking

(2) On-street parking shall be permitted, where appropriate.

(3) In addition to the regulations included herein, all off-street parking shall be provided in accordance with the off-street parking and loading requirements of Article 26[10] of the zoning ordinance.

(4) The provisions of Article 26[11] for the application of individual parking standards for projects located within the Zion Crossroads UDA may be modified at the discretion of the Planning Commission, provided that the Applicant submits a parking impact study that fully justifies the modification to the standards based on the mix of uses, the phasing of development, and other factors, including relationship of parking location to individual land uses within the project.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-12. Height of buildings.

The height regulations for the PUD district shall be as follows:

PUD Maximum Heights						
Building Types	**Community Planning Areas**					
	Zion Crossroads	**Rivanna**	**Palmyra**	**Fork Union**	**Columbia**	**Scottsville**
Single-Family	45 Feet	45 Feet	45 Feet	45 Feet	45 Feet	45 Feet
Multi-Family	55 Feet	45 Feet	45 Feet	45 Feet	45 Feet	35 Feet
Business, Industrial & Non-Residential	75 Feet	55 Feet	45 Feet	45 Feet	55 Feet	35 Feet

(1) For purposes of this section, height shall be the vertical distance of a structure measured from the highest finished grade to the highest point of the structure.

[10] Editor's note – conformed to numbering convention of this Code by the Editor. Appears as "Article 22-26" in the original.

[11] Editor's note – conformed to numbering convention of this Code by the Editor. Appears as "Article 22-26" in the original.

(2) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials: sixty feet (60') from grade, unless otherwise enumerated in the master plan.

(3) Roof-mounted mechanical equipment (i.e. air conditioners, condensers, ductwork, etc.) shall not be visible at any point from ground-level. Parapet walls shall not extend more than four feet (4') above the maximum height permitted for buildings within the PUD district.

(4) Buildings with a mixture of business and residential uses are subject to the height regulations of business, industrial and non-residential buildings.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-13. Utilities.

(1) All uses and structures within a PUD district shall be served by both central water and sewerage systems, whether publicly or privately provided.

(2) No overhead utility lines shall be permitted within a PUD district. All utility lines, including but not limited to, electric, telephone, cable television lines, etc. shall be placed underground.

(3) Telecommunications facilities are encouraged on the roofs of buildings within a PUD district to provide coverage to the district and surrounding area.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-14. Building design and architecture.

(1) Within the multi-family residential, business, industrial, and mixed-use areas of a PUD district, building design styles shall be compatible with each other and shall exhibit consistency in terms of their exterior materials, architectural style, size, shape, scale, and massing.

(2) With the exception of detached single family dwellings, building facades shall maintain a consistent street edge. The street elevation of principal structures shall have at least one street-oriented entrance and contain the principal windows of the structure, with the exception of structures in a courtyard style.

(3) Site plans shall include drawings, renderings, or perspectives of a professional quality which illustrate the scale, massing, roof shape, window size, shape and spacing, and exterior materials of the structure.
(Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-15. Amendment.

(1) The Planning Director may approve a minor change to an approved PUD Application Package and Application Plan at the written request of the owner of the development. For purposes of this section, a "minor change" refers to changes of location and design of buildings, structures, streets, parking, recreational facilities, open space, landscaping, utilities, or similar details which do not significantly change the character of the approved PUD application package and PUD master plan.

(2) If the Planning Director determines that the requested change constitutes a significant change, or something more than a minor change to the approved zoning application package, then the owner may seek an amendment to the PUD Application Package and Application Plan from the board of supervisors. The application procedure for such an amendment shall be the same as the application procedure for the original approval. (Ord. 8-5-09; Ord. 11-16-11)

Sec. 22-14-16. Construction of article.[12]

The provisions of this Article shall be construed in such manner as to be consistent with other provisions of this Code to the extent that such construction may be reasonably applied. To the extent that any provision of this Article shall be inconsistent with any other provision of this Code, the provisions of this Article shall be deemed to be controlling. (Ord. 8-5-09; Ord. 11-16-11)

Article 15. Sign Regulations.

Sec. 22-15-1. Statement of intent.

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the county, to protect public investment in

[12] Note: The term "shall generally", as used in the context of this section of the ordinance, indicates that the stated requirement is expected unless there are compelling, specific, and extenuating circumstances for why it cannot be met. (Editor's note – "this section of the ordinance" refers to Article 14 as a whole.)

streets and highways, to promote the safety and recreational value of public travel, to minimize possible adverse effects of signs on nearby public and private property, to preserve natural beauty, to protect the environment from litter and refuse, including abandoned signs, to identify, direct and provide necessary information efficiently to motorists and pedestrians, to decrease distraction of motorists and pedestrians by limiting confusing, distracting and obsolete signs, and to reduce obstruction of the roadway. No sign shall be permitted erected or used in the county, except as permitted in this article. (Ord. 6-16-10; Ord. 12-16-15)

Sec. 22-15-2. General provisions.

(1) Restricted Signs – The following types of signs are prohibited in all zoning districts:

(a) Flashing signs;

(b) Inflatable signs;

(c) Moving signs;

(d) (Intentionally omitted);

(e) Pennant signs;

(f) Portable signs;

(g) Roof signs;

(h) Any sign that obstructs any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, as required by law;

(i) Any sign which imitates or resembles any official traffic sign, signal or device, or uses the words “Stop” or “Danger” in close proximity to any public right-of-way, or interferes with any other public traffic sign;

(j) Signs which produce noise or any visible smoke, vapor, particles, or odor;

(k) Signs which advertise any activities which are illegal under state or federal law or regulations in effect at the location of such sign or at the location of such activities; and

(l) Signs that violate state or federal laws, whether or not identified in this ordinance as being permitted.

(2) Exempt Signs – Exempt signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. Exempt signs shall be legible, and shall be reasonably maintained in good repair, and in safe, neat, and clean condition. Any temporary exempt sign, defined in Section 22-22-1 of this Code, shall be posted a reasonable time before, but in no event greater than sixty (60) days prior to and shall be removed a reasonable time after, but in no event greater than ten (10) days after the event, election, production, group, occurrence, speaker, program or seasonal activity to which the temporary sign refers. The following types of signs, as defined in and subject to the regulations in Sec. 22-22-1, are exempt from the sign permit requirements in all zoning districts:

(a) Auction signs;

(b) Banner signs;

(c) Construction signs;

(d) Directional signs;

(e) Estate signs;

(f) Public signs;

(g) Real estate signs;

(h) Temporary signs;

(i) Temporary directional signs;

(j) Warning signs; and

(k) Window signs.

(3) Illuminated Signs

(a) Signs may be illuminated, either internally or externally, as permitted by this ordinance, provided that the illumination is fully shielded and directed at the sign and not in a manner as to cause a traffic hazard.

(b) Where a permit is required, the permit shall not be issued until the location and illumination of the sign has been approved by the zoning administrator, or designee.

(c) No light from any illuminated sign shall cause direct glare onto any adjoining piece of property, right-of-way, or building other than the building to which the sign applies to.

(d) The copy of electronic message signs may not flash, scroll, move, or change at timed intervals of less than twenty (20) seconds.

(e) All electronic message signs must be equipped with an automatic dimmer that controls the intensity of the light source. The intensity of light allowed for all illuminated signs shall be eight-five percent (85%) by day and fifty percent (50%) at night.

(f) All electronic message signs must be turned off at the close of business, unless displaying time or temperature.

(4) Setbacks

(a) Signs shall be exempt from setback requirements in all zones, provided that no sign shall be located as to interfere with vehicular sight distances at intersections or to create a safety hazard.

(b) Signs shall not be located within any public right-of-way, unless approved by the Virginia Department of Transportation.

(5) Sign Area

(a) The sign area shall be measured as the area of the sign face which includes the advertising surface and any framing, trim, or molding. Two-sided sign faces shall be counted as a single sign face.

(b) Area not included: the sign area shall not include any of the support structure or architectural features that are not an integral part of the sign which may consist of landscaping, building structural form complementing the site in general.

(6) Sign Height

(a) The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher and shall include the base and any support structure.

(b) Signs shall not exceed six feet (6') in height, except as otherwise permitted by this article.

(Ord. 6-16-10; Ord. 12-16-15)

Sec. 22-15-2.1. Repealed.
(Ord. 6-16-10; Ord. 12-16-15)

Sec. 22-15-3. Signs permitted.

(1) Agricultural (A-1) – The following signs shall be permitted in the A-1, Agricultural, General zoning district:

Type of Sign	**Number Allowed**	**Max. Sign Area**	**Max. Sign Height**
Awning Sign	1 per establishment	6 sq. ft.	N/A
Business Sign	1 per parcel	24 sq. ft. (freestanding or monument)	6 feet
Home Occupation Sign	1 per parcel	12 sq. ft.	4 feet

Projecting Sign	1 per establishment	9 sq. ft.	Roof line of the building
Subdivision Sign	1 per entrance	40 sq. ft.	6 feet
Temporary Subdivision Advertising Sign	1 per public road that property has frontage on	32 sq. ft.	8 feet
Wall Sign	1 per road frontage	3 sq. ft. per 1 lineal foot of building/ tenant frontage*	Roof line of the building

*No more than 50% of the total sign area may be displayed on the front of the building. The remaining 50% may be distributed on the sides and rear of the building, with a maximum of 25% distribution per side and a maximum of 50% distribution on the rear of the building.

(2) Residential (R-1, R-2, R-4, MHP) – The following signs shall be permitted in the R-1, Residential, Limited; R-2, Residential, General; R-4, Residential, Limited; and MHP, Manufactured Home Park zoning districts:

Type of Sign	**Number Allowed**	**Max. Sign Area**	**Max. Sign Height**
Business Sign	1 per parcel	20 sq. ft. (freestanding or monument)	6 feet
Home Occupation Sign	1 per parcel	9 sq. ft.	4 feet
Subdivision Sign	1 per entrance	40 sq. ft.	6 feet
Temporary Subdivision Advertising Sign	1 per public road that property has frontage on	32 sq. ft.	8 feet

(3) Residential (R-3), Business (B-1, B-C), Planned Unit Development (PUD), and Industrial (I-1, I-2) – The following signs shall be permitted in the R-3, Residential, Planned Community; B-1, Business, General; B-C, Business, Convenience; PUD, Planned Unit Development; I-1, Industrial, Limited; and I-2, Industrial, General zoning districts:

Type of Sign	**Number Allowed**	**Max. Sign Area**	**Max. Sign Height**
Awning Sign	1 per establishment	6 sq. ft.	N/A

Business Sign (standalone businesses or not part of business/ industrial park)	1 per parcel	24 sq. ft. (freestanding) 28 sq. ft. (monument)	6 feet (freestanding) 8 feet (monument)
Business Sign (shopping centers or business/ industrial parks)	1 per shopping center or business park entrance	1.5 square feet of sign area for each lineal foot of building/tenant frontage – up to a maximum of 150 sq. ft. aggregate	10 feet (freestanding) 15 feet (monument)
Canopy Sign	1 per establishment	12 sq. ft.	N/A
Directory Sign	1 per establishment or development	16 sq. ft.	6 feet
Electronic Message Sign	1 per parcel	28 sq. ft.	8 feet
Projecting Sign	1 per establishment	12 sq. ft.	Roof line of the building
Subdivision Sign	1 per entrance	40 sq. ft.	8 feet
Temporary Subdivision Advertising Sign	1 per public road that property has frontage on	32 sq. ft.	8 feet
Wall Sign	1 per road frontage	3 sq. ft. per 1 lineal foot of building/ tenant frontage*	Roof line of the building

*No more than 50% of the total sign area may be displayed on the front of the building. The remaining 50% may be distributed on the sides and rear of the building, with a maximum of 25% distribution per side and a maximum of 50% distribution on the rear of the building.

(Ord. 6-16-10)

Sec. 22-15-4. Administration.

(1) Permit Requirements – Except as otherwise provided herein, no sign shall be erected, altered, refaced or relocated unless a sign permit has been approved by the Zoning Administrator. Where there is a discrepancy between Fluvanna County and the Virginia Department of Transportation sign regulations, the more stringent shall apply. Where the Fluvanna County sign regulations do not recognize a particular type of sign, the Virginia Department of Transportation regulations shall apply.

(2) Maintenance and Removal

(a) All signs shall be constructed in compliance with the Uniform Statewide Building Code, as adopted by the Virginia State Code.

(b) All signs and components thereof shall be legible and shall be maintained in good repair and in a safe, neat, and clean condition.

(c) The Zoning Administrator may cause to have removed or repaired immediately any sign which, in the Zoning Administrator's opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof.

(d) Any sign that is obsolete, because of discontinuance of the subject activity or any other reason that would cause the sign to be obsolete, shall be removed within ten (10) days.

(e) Any sign located on property, which becomes vacant and is unoccupied for a period of two (2) years or more shall be deemed abandoned. An abandoned sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator may initiate such action as may be necessary to gain compliance with this provision.

(Ord. 6-16-10; Ord. 12-16-15)

Sec. 22-15-4.1. "Going out of business" and "Special" sales.[13]

(A) All persons must obtain a permit from the county in order to advertise or conduct a 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 going to be discontinued and the merchandise liquidated.

(B) The applicant shall submit an application for a permit to the county administrator, or his designee, which shall include the following:

(1) A statement of the purpose of the sale (i.e. liquidation of assets, terminating retail business);

(2) An inventory including the kind and quantity of all goods to be offered for sale during the sale;

(3) A copy of any proposed advertisements which may be posted or published in connection with the special sale; and

(4) A fee of $50[14] for the processing of the permit, which shall not be refunded.

(C) Upon receipt of the complete application and fee, the county administrator or his designee, shall issue a special sale permit which shall be valid for a maximum of sixty (60) days. An extension of the sale or additional sale shall require an additional permit application and fee as described above. A maximum of one (1) permit beyond the initial sixty (60) day permit may be granted solely for the purpose of liquidating only those goods contained in the initial inventory list which remain unsold.

(D) The permittee shall prominently display the permit number and effective dates of the special sale on any and all advertisements for such sale. The permittee may not advertise along with its special sale any goods not listed in the inventory provided to the county in its application.

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[13] For state law requiring the county to oversee and permit such sales, see Code of Va., §§ 18.2-223 and 18.2-224.

[14] *Editor's Note* – The Board of Supervisors resolution of 12-16-15 approved a fee of $50, previously Sect. 22-15-4.1(B)(4) had required a fee of $65.

(E) The permittee may not commingle or add to the special sale any goods not listed in the inventory list provided to the county. Upon proof that the permittee has commingled or added goods not listed in the inventory list to the special sale, the county may revoke the special sale permit.

(F) The county administrator's designee shall inspect the advertisement and conducting of the special sale to insure it is being advertised and conducted in conformity with the permit.

(G) Advertising or conducting a special sale without a permit, as required by this Section, shall be punishable as a Class 1 misdemeanor.
(Ord. 12-16-15)

Sec. 22-15-5. Non-conforming signs.

(1) No nonconforming sign shall be enlarged nor be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign.

(2) Signs lawfully existing on the effective date of this ordinance or prior ordinances, which do not conform to the provisions of this ordinance, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. Such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area. The burden of establishing the nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the Zoning Administrator, a property owner shall submit verification that sign(s) lawfully existed at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into conformance with the current ordinance.

(3) Nothing in this Section shall be deemed to prevent keeping in good repair a nonconforming sign; provided, however, that no nonconforming sign which has been declared by the Zoning Administrator to be unsafe because of its physical condition, as provided for in this ordinance, shall be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable regulations.

(4) No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform to the provisions of this Article.

(5) If a nonconforming sign is removed, the subsequent erection of a sign shall be in accordance with the provisions of this Article.

(6) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty percent (50%) of its replacement value may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty percent (50%), it shall not be reconstructed except for a sign, which would be in accordance with the provisions of this Article.

(7) A nonconforming sign that is changed to, or replaced by, a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this Article.

(8) A nonconforming sign shall be removed if the structure to which it is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of its appraised value.

(9) The ownership of the sign or the property on which the sign is located shall not, in and of itself, affect the status of a non-conforming sign.

(10) A nonconforming sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two (2) years. After the two (2) year period, the Zoning Administrator shall make a reasonable attempt to contact the property owner. If the property owner refuses to remove the abandoned sign, the county's agents or employees may enter the property upon which the sign is located and remove such sign and charge the cost of removal to the owner of the property. Nothing herein shall prevent the county from applying to the appropriate courts for an order requiring removal of the abandoned nonconforming sign by injunction or other appropriate remedy.[15]

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[15] For state authority as to the removal of abandoned nonconforming signs, see Code of Va., § 15.2-2307.

(Ord. 6-16-10; Ord. 12-16-15)

Article 16. Nonconforming Uses.

Sec. 22-16-1. Continuation.

(A) If, at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner or use or purpose may be continued as herein provided. In addition, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance if the landowner is the beneficiary of, relies on, or incurs extensive obligations or substantial expenses due to a significant governmental act pursuant to all provisions of section 15.2-2307 of the Code of Virginia.

(B) If any change in title or possession, or renewal of a lease, of any such lot or structure occurs, the use existing may be continued.

(C) If any nonconforming use, structure or activity is discontinued for a period exceeding two (2) years, after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of the ordinance.

(D) Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

(E) Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded, except as provided in subsection (C) above.

(F) Automobile graveyards and junkyards in existence at the time of the adoption of this ordinance are to be considered as nonconforming uses. They shall be allowed up to three (3) years after adoption of this ordinance in which to screen completely, on any side open to view from a public road.

Sec. 22-16-2. Permits.

(A) All nonconforming uses shall be identified and catalogued, and zoning permits and certificates of occupancy shall be issued by the zoning administrator within one year after the adoption of this ordinance.

(B) The construction or use of a nonconforming building for which a building permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, after the effective date of this ordinance.

Sec. 22-16-3. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared unsafe by any official charged with protecting the public safety upon order of such official.

Sec. 22-16-4. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change, shall become subject to the provisions of this article.

Sec. 22-16-5. Expansion or enlargement.

(A) A nonconforming structure may be extended, expanded, or enlarged by a total of not more than one hundred percent (100%) of its square footage as of its initial construction provided that all setback and yard requirements of the ordinance are met by the addition. The foregoing notwithstanding, in the case of any such extension, expansion or enlargement to a structure which does not conform to the requirements of this ordinance, the setbacks and/or rear and/or side yards provided for such addition shall in no event be less than the setback and/or rear and/or side yard requirements in effect on January 1, 1974, or on the date of completion of the initial construction of the nonconforming structure, whichever date is later.

(B) In addition to the foregoing, a nonconforming structure which was lawfully in existence prior to January 1, 1974, and which does not conform to the setback and/or yard requirements of this ordinance, or of any predecessor zoning ordinance, may be extended, expanded or enlarged to a reasonable extent, not to exceed one hundred percent (100%) of its square footage as of its initial construction without regard to such requirements provided that the zoning administrator shall determine that:

(1) such extension, expansion or enlargement would not cause the structure to be made more nonconforming;

(2) such extension, expansion or enlargement would be reasonable and would not be of substantial detriment to adjacent property, and the character of the zoning district would not be changed thereby;

(3) such extension, expansion or enlargement cannot reasonably be accommodated in a manner consistent with such requirements; and

(4) the failure to permit such extension, expansion or enlargement would be unreasonable under the circumstances.

(C) Structures which are accessory to a nonconforming primary structure shall comply with the regulations in effect at the time the primary structure was built.

(D) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance. (Ord. 3-15-06; Ord. 6-16-10)

Sec. 22-16-6. Nonconforming unimproved lots.

Any unimproved lot of record at the time of the adoption of this ordinance which is less in frontage, area or width than the minimum required by this ordinance may be used only when the requirements of the relevant district regarding setbacks and side and rear yards are met. The foregoing notwithstanding, in the case of any unimproved lot of record at the time of the adoption of this ordinance such lot may be used provided that the setbacks and/or rear and/or side yards provided for construction or other development shall in no event be less than the setback and/or rear and/or side yard requirements in effect on January 1, 1974, or on the date of recordation of the nonconforming lot, whichever date is later. In addition to the foregoing, a nonconforming unimproved lot which was lawfully of record prior to January 1, 1974, and which does not conform to the setback and/or yard requirements of this ordinance, or of any predecessor zoning ordinance, may be used to a reasonable extent, without regard to such requirements provided that:

(1) the failure to permit construction or other development for such use would be unreasonable under the circumstances;

(2) such construction or other development for such use would be reasonable and would not be of substantial detriment to adjacent property and the character of the zoning district would not be changed thereby; and

(3) construction or other development for such use cannot reasonably be accommodated in a manner consistent with such requirements.
(Ord. 6-16-10)

Sec. 22-16-7. Prohibition against creation of lots below width and area requirements for district.

No lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established in each district by this ordinance, nor shall any division be made which creates a lot with width or area below the requirements in each district established by this ordinance.

Sec. 22-16-8. Repair and restoration after damage.

(A) Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started within twelve (12) months from the date of damage or partial destruction. Such restoration shall not exceed two hundred percent (200%) of its size in square footage when destroyed. Any such expansion exceeding one hundred percent (100%) of the original structure shall conform with the yard requirements of this ordinance. Any such repair or restoration must be carried out in compliance with the Uniform Statewide Building Code and Fluvanna County flood regulations, as required by section 15.2-2307 of the Code of Virginia.

(B) If a nonconforming structure is in an area under a federal disaster declaration and the structure has been damaged or destroyed as a direct result of the conditions that gave rise to the federal disaster declaration, then it may be repaired or restored for an additional two (2) years after the time permitted in subsection (A) above.

(C) Any manufactured home which was lawfully in existence in the county on the effective date of this ordinance may be replaced by another manufactured home, subject to the following:

(1) The replacement manufactured home shall contain the same or greater floor area as the manufactured home being replaced;

(2) The replacement manufactured home shall comply with all building and construction codes in the Commonwealth of Virginia applicable to manufactured homes;

(3) The replacement manufactured home shall be located on the same parcel so as to comply with all yard and setback requirements of the ordinance unless the dimensions of the parcel are such that such compliance is infeasible, in which case the replacement manufactured home shall be located substantially in the same location as the manufactured home being replaced;

(4) The manufactured home being replaced shall be removed from the parcel no later than ninety (90) days after the replacement manufactured home is placed on the parcel.

(5) There shall be no dual occupancy when such manufactured homes are being replaced.

(6) The replacement manufactured home shall be located on the parcel not more than ninety (90) days after removal of the manufactured home to be replaced.

(Ord. 12-16-15)

Article 17. General Provisions.

Sec. 22-17-1. Zoning permits.

(A) Buildings or structures shall be started, reconstructed, or enlarged only after a zoning permit has been obtained from the administrator or his designated agent.

(B) Each application for a zoning permit shall be accompanied by a site plan which complies with the provisions of Article 23: Site Development Plans of this Chapter. In the case of any building, structure or use which is exempt from the provisions of Article 23, a sketch plan shall be submitted. Each such sketch plan shall show the property in such detail as the administrator may deem necessary to ensure compliance with this chapter. Except as may otherwise be required in a particular case, such sketch shall show the size and shape of the parcel of land on which the proposed building, structure or use is to be established, the nature of the proposed use of the building or land, and the size, shape and location of such building, structure or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land, including all setbacks and required yards as prescribed by this chapter and by all applicable deed restrictions known to the applicant. The sketch plan shall also include any other information which the administrator may deem necessary for construction of the application. If the proposed building, structure or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator.

(C) Activity for which a zoning permit was issued must commence within twenty-four (24) months or such permit shall expire and be of no further effect.
(Ord. 12-16-15)

Sec. 22-17-2. Reserved.[16]

Sec. 22-17-3. Certificate of occupancy.

Land or buildings may be used or occupied only after a certificate of occupancy has been issued by the administrator or his designated agent. Such a permit shall state that the building, or the proposed activity, or the use of the land, complies with the provisions of this Chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this Chapter.

Sec. 22-17-4. Special use permits.

(A) When permitted by this chapter, special use permits may be authorized by the governing body upon the governing body's finding that the proposed use will not be detrimental to the character and development of the adjacent area.

(B) The governing body may place conditions on the issuance of a special use permit.

(C) All applications for a special use permit shall require notice and public hearing pursuant to section 15.2-2204 of the Code of Virginia. In addition to the notice required by section 15.2-2204, the applicant shall cause a sign to be erected on the property which is the subject of any proposed amendment. Such sign shall be of a type approved by the zoning administrator and shall be posted on the subject property at the nearest public road or at its point of access to the nearest public road. A rezoning application and, when required, a special use permit, may be applied for simultaneously and the required public hearing and the required notice and the rezoning request and special use permit request may be held jointly.
(Ord. 2-18-15)

[16] Sec. 22-17-2 is inserted by the Editor as a reserved section to correct the omission of this section number in the Code.

(D) In the governing body's consideration of a special use permit application, the governing body shall consider the following guidelines:

(1) The proposed use shall not tend to change the character and established pattern of the area or community in which it proposes to locate.

(2) The proposed use shall be compatible with the uses permitted by right in that zoning district and shall not adversely affect the use and/or value of neighboring property.

(3) The applicant shall also submit with the application a current survey of the subject property and a sketch plan of all proposed improvements.

(E) Applications for a special use permit shall be accompanied by a filing fee as determined by a fee schedule adopted by the governing body.

(F) Any special use permit issued pursuant to this article may, after notice and hearing as provided in subsection (C) hereof, be revoked by the governing body upon a finding that (1) the use for which such permit was granted has been abandoned; or (2) that the holder of such permit has substantially breached the conditions of such permit. For purposes of this section, a special use permit may be deemed abandoned by the governing body if the approved use has not been initiated within two (2) years from the date of approval.

(G) In the event that any parcel which is subject to a special use permit issued pursuant to this article shall be rezoned to any other district, the effect of such rezoning on such permit shall be as follows:

(1) If such use shall be a use by right in such other district, such permit shall be deemed to be repealed and the use shall be deemed a use by right;

(2) If such use shall be a use by special use permit only, such permit shall remain in full force and effect, subject to the provisions of this Chapter;

(3) If such use shall not be a permitted use, such permit shall be deemed to have been repealed, and the use permitted thereby shall be deemed to be a non-conforming use in accordance with Article 16 of this Chapter.

Sec. 22-17-5. Uses not provided for.

If in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the planning commission. Thereafter, the said application shall be treated as a resolution of the planning commission in accordance with Section 22-20-1(C) of this Chapter.

Sec. 22-17-6. Widening of highways and streets.

Whenever there shall be plans in existence for a project in the Secondary or Primary Six Year Plan that has been approved by the Virginia Department of Transportation and the governing body for the widening of any street or highway, the administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right of way, in order to preserve and protect the right of way for such proposed street or highway widening. (Ord. 12-16-15)

Sec. 22-17-7. Reserved.

Sec. 22-17-8A. FLOOD PROTECTION.[17]

This section is adopted pursuant to the authority granted to localities by section 15.2-2280 of the Code of Virginia. (Ord. 6-17-15)

Sec. 22-17-8A.1. Purpose.

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

(A) 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;

(B) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

[17] Section 22-17-8. and all subsections (22-17-8.1. through 22-22-17-8.9., inclusive) were repealed and Section 22-17-8A., including subsections thereof, was adopted by 12-19-07 Ordinance.

(C) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,

(D) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
(Ord. 12-19-07; Ord. 6-17-15)

Sec. 22-17-8A.2. Applicability.

These provisions shall apply to all privately and publicly held lands within the jurisdiction of Fluvanna County and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to Fluvanna by the Federal Emergency Management Agency (FEMA). (Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.3. Definitions.

For purposes of this Section 22-17-8A., the following terms shall be defined as follows:

(A) Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.

(B) Base flood elevation - The FEMA designated one hundred (100) year water surface elevation. The water surface elevation of the Base flood in relation to the datum specified on the Fluvanna County FIRM. For purposes of this ordinance, the base flood is the one percent (1%) annual chance of flood. (Ord. 6-17-15)

(C) Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.

(D) Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

(E) REPEALED (Ord. 5-7-08)

(F) 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 or storage of equipment or materials.

(G) Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

(H) Existing construction- For the purposes of the insurance program, structures for which the "start of construction" commenced before August 15, 1978. "Existing construction" may also be referred to as "existing structures" or "pre-FIRM." (Ord. 6-17-15)

(I) Flood or flooding -

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from

(a) the overflow of inland or tidal waters; or,

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

(c) mudflows which are proximately caused by flooding as defined in paragraph(1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (Ord. 6-17-15)

(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 waves 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition. (Ord. 6-17-15)

(J) Flood Insurance Rate Map (FIRM) – An official map of a community, on which FEMA 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). (Ord. 6-17-15)

(K) 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. (Ord. 6-17-15)

(L) Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

(M) Flood-proofing- Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. (Ord. 6-17-15)

(N) 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 at any point. (Ord. 6-17-15)

(O) Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

(P) Highest adjacent grade – the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (Ord. 6-17-15)

(Q) 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

(4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either

(a) by an approved state program as determined by the Secretary of the Interior; or,

(b) directly by the Secretary of the Interior in states without approved programs.

(R) REPEALED (Ord. 5-7-08)

(S) 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 Recreation and FEMA, used to determine the base flood, or other frequency floods, flood elevations, floodway information and boundaries, and flood profiles. (Ord. 6-17-15)

(T) 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 (FIRM) or Flood Insurance Study (FIS). LOMC include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was 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, flood-plain 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 Fluvanna 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 requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

(Ord. 6-17-15)

(U) Lowest adjacent grade - The lowest natural elevation of the ground surface next to the walls of a structure. (Ord. 6-17-15)

(V) 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 §60.3.

(W) Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed one a site for greater than 180 consecutive days.

(X) Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 6-17-15)

(Y) Mean Sea Level – An elevation point that represents the average height of the ocean's surface (such as the halfway point between the mean high tide and the mean low tide) which is used as a standard in reckoning land elevation. (Ord. 6-17-15)

(Z) New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after August 15, 1978, and includes any subsequent improvements 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 structures. Such structure is also referred to as "post-FIRM." (Ord. 6-17-15)

(AA) Post-FIRM structures – A structure for which construction or substantial improvement occurred on or after August 15, 1978. (Ord. 6-17-15)

(BB) Pre-FIRM structures – A structure for which construction or substantial improvement occurred before August 15, 1978. (Ord. 6-17-15)

(CC) Recreational vehicle - A vehicle 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 a light duty truck; and,

(4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

(DD) Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a ten (10) year period, in which the cost of the repair, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage. (Ord. 6-17-15)

(EE) Severe Repetitive Loss Structure - A structure that:

(a) is covered under a contract for flood insurance made available under the NFIP; and

(b) has incurred flood related damage –

a) for which four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

b) for which at least two (2) separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure. (Ord. 6-17-15)

(FF) Special flood hazard area - The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Article 17, Section 22-17-8A. of this ordinance. (Ord. 6-17-15)

(GG) 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 180 days of the permit date. The

actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation 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.

(HH) Structure – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. (Ord. 6-17-15)

(II) 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 fifty percent (50%) of the market value of the structure before the damage occurred.

(JJ) Substantial improvement - Any reconstruction, rehabilitation, addition, or other 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:

(1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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. (Ord. 6-17-15)

(KK) Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 22-17-8A. of this ordinance is presumed to be in violation until such time as that documentation is provided. (Ord. 6-17-15)

(LL) Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.4. Compliance and Liability.

(A) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

(B) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.

(C) Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator in his duties as Floodplain Administrator. (Ord. 6-17-15)

(D) This ordinance shall not create liability on the part of Fluvanna County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
(Ord. 12-19-07; Ord. 6-17-15)

Sec. 22-17-8A.4.1. Penalty for Violations.

Any person who fails to comply with any of the requirements or provisions of this article or directions of the Director of Planning or any authorized employee of Fluvanna County shall be guilty of the appropriate violation and subject to the penalties therefore.

The VA USBC addresses building code violations and the associated penalties in Sections 104, 115. Violations and associated penalties of the Fluvanna County Zoning Ordinance are addressed in Article 19, Section 22-19.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.
(Ord. 6-17-15)

Sec. 22-17-8A.5. Abrogation and Greater Restrictions.

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance. (Ord. 12-19-07)

Sec. 22-17-8A.6. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable. (Ord. 12-19-07)

Sec. 22-17-8A .7. Establishment of Zoning Districts.
(Ord. 6-17-15)

Sec. 22-17-8A .7.1. Description of Special Flood Hazard Districts.

(A) Basis of Districts

The various special flood hazard districts shall include special flood hazard areas (SFHAs). The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Fluvanna County, Virginia and Incorporated Areas prepared by the Federal Emergency Management Agency, dated as of May 16, 2008, as amended or revised. (Ord. 5-7-08)

Fluvanna County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

(1) The Floodway District is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one foot (1') at any point. The areas included in this District are specifically defined in the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE Zone:

(a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses 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 a thorough review by the Floodplain Administrator.

(b) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with Fluvanna County's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of FEMA.

If Section 22-17-8A.7.1(A)(1)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 22-17-8A.12., 22-17-8A.13., 22-17-8A.14., and 22-17-8A.19..

(c) The following uses are prohibited in the Floodway District:

1. Dwellings, and

2. Manufactured homes, mobile homes or trailers.

(d) The following uses may be permitted within the Floodway District in accordance with the requirements of this section and as specifically provided in the underlying zoning district:

1. General farming, agriculture, dairying and forestry.

2. Parks and playground.

3. Preserves and conservation areas.

4. Small boat docks (with repair).

5. Off-street parking as required by this ordinance.

6. Accessory uses, as defined by this ordinance.

(e) The following uses shall be permitted only by special use permit approved by the governing body pursuant to Article 17 of this chapter:

1. Lodges, hunting clubs, boating clubs, camping facilities, and golf clubs.

2. Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; public water and sewer transmission lines, treatment facilities, and pumping facilities; electrical power transmission lines and substation; oil and gas transmission lines and substation; oil and gas transmission pipelines and pumping stations; microwave transmission and relay towers and substations; unmanned telephone exchange centers.

3. Extraction of sand, gravel and other material (except no increase in level of flooding or velocity is caused thereby).

(Ord. 12-19-07; Ord. 5-7-08)

(2) The AE, or AH Zones on the FIRM accompanying the FIS shall be those areas for

which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH Zone [44 CFR 60.3(c)]*:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Fluvanna County.
Development activities in Zones Al-30 and AE or AH, on Fluvanna County's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with Fluvanna County's endorsement, for a Conditional Letter of Map Revision, and receives the approval of FEMA.

* The requirement in 63.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

(3) The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies,

analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to no lower than three feet above the highest adjacent grade or one foot above the base flood level, whichever is higher. (Ord. 5-7-08)

During the permitting process, the Floodplain Administrator shall obtain:

a) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,

b) If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS 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.

(4) The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 CFR 60.3(c)]:

a) All new construction and substantial improvements of residential structures shall 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 no less than two feet above the highest adjacent grade.

b) All new construction and substantial improvements of non-residential structures shall

i. 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,

ii. together with attendant utility and sanitary facilities be completely flood-proofed 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.

(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.8. Overlay concept.

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

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

(C) In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable. (Ord. 12-19-07)

Sec. 22-17-8A.9. Official Flood Hazard Area and Floodplain Map.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Fluvanna County offices. (Ord. 12-19-07)

Sec. 22-17-8A.10. District boundary changes.

The delineation of any of the Floodplain Districts may be revised by Fluvanna County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to

any such change, approval must be obtained from the Federal Emergency Management Agency. (Ord. 12-19-07; Ord. 6-17-15)

Sec. 22-17-8A.11. Interpretation of district boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires. (Ord. 12-19-07; Ord. 5-7-08)

Sec. 22-17-8A.12. Permit and application requirements.

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Code, including, without limitation, this Chapter and Chapter 19: Subdivisions, and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC). Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. No use, activity, and/or development will be permitted which would adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(A) Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(1) For structures to be elevated, the elevation of the lowest floor (including basement).

(2) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

(3) The elevation of the one hundred (100)-year flood (base flood) at the site. (Ord. 12-19-07)

(4) Topographic information showing existing and proposed ground elevations.

(Ord. 12-19-07; Ord. 6-17-15)

Sec. 22-17-8A.13. General standards.

The following provisions shall apply to all permits issued under Section 22-17-8A.12.:

(A) New construction and substantial improvements shall be according to the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure. (Ord. 5-7-08)

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) 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.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A-H above, in all special flood hazard areas, the additional provisions shall apply:

(I) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

(J) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.14. Elevation and construction standards.

In all identified flood hazard areas where base flood elevations have been provided in the Flood Insurance Study (FIS) or generated in accordance with Section 22-17-8A.7.1(A)(3) the following provisions shall apply:

(A) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.

(B) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation.

Non-residential buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation plus 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 Floodplain Administrator.

(C) Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall*:*

(1) 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);

(2) be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and

(3) 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: (Ord. 5-7-08)

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

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

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

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

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

f) 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.

(D) Standards for Manufactured Homes and Recreational Vehicles

(1) All manufactured homes placed, or substantially improved, must meet all the requirements for new construction, including the elevation and anchoring requirements in 22-17-8A.13. and 22-17-8A.14.

(2) All recreational vehicles placed on sites must either

a) be on the site for fewer than 180 consecutive days, 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,

b) meet all the requirements for manufactured homes in 22-17-8A.14(D)(1).

(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.15. REPEALED. (Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.16. REPEALED. (Ord. 12-19-07; Ord. 5-7-08)

Sec. 22-17-8A.17. REPEALED. (Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

Sec. 22-17-8A.18. REPEALED. (Ord. 12-19-07; Ord. 5-7-08)

Sec. 22-17-8A.19. Standards for subdivision proposals.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

(D) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.
(Ord. 12-19-07; Ord. 6-17-15)

Sec. 22-17-8A.20. Existing structures in floodplain areas.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

(A) Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.

(B) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty percent (50%) of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.

(C) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty percent (50%) or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.
(Ord. 6-17-15)

Sec. 22-17-8A.20.1 Variances.

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half

acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(A) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation.

(B) The danger that materials may be swept on to other lands or downstream to the injury of others.

(C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(D) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(E) The importance of the services provided by the proposed facility to the community.

(F) The requirements of the facility for a waterfront location.

(G) The availability of alternative locations not subject to flooding for the proposed use.

(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(I) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(J) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(K) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(L) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(M) Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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.
(Ord. 6-17-15)

Sec. 22-17-8A.21. Administration. (Ord. 6-17-15)

Sec. 22-17-8A.21.1. Designation of the Floodplain Administrator. [44 CFR 59.22(b)]

The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

(A) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by Fluvanna County's Administrator.

(B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(C) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve Fluvanna of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
(Ord. 6-17-15)

Sec. 22-17-8A-21.2. Duties and responsibilities of the Floodplain Administrator. [44 CFR 60.3]

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(C) 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.

(D) 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.

(E) 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 (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

(F) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on FIRMs as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).

(G) 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.

(H) 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 non-compliance has occurred or violations have been committed.

(I) Review Elevation Certificates and require incomplete or deficient certificates be corrected.

(J) 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 Fluvanna County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(K) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(2) 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.

(L) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(M) 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.

(N) Administer the requirements related to proposed work on existing buildings:

(1) 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.

(2) 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.

(O) Undertake, as determined appropriate by the Floodplain Administrator 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 coverage under NFIP flood insurance policies.

(P) Notify the Federal Emergency Management Agency when the corporate boundaries of Fluvanna County have been modified and:

(1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(2) 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 governing body 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 Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(Q) 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, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(R) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of Fluvanna County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
(Ord. 6-17-15)

Sec. 22-17-8A-21.3. Use and interpretation of FIRMs. [44 CFR 60.3]

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

(2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs,

any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(C) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 22-17-8A-7.1(A)(3) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(Ord. 6-17-15)

Sec. 22-17-8A.21.4. Jurisdictional boundary changes. [44 CFR 59.22, 65.3]

The county floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. 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 governing body 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 Department of Conservation and Recreation(Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) § 59.22(a)(9)(v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever Fluvanna's boundaries have been modified by annexation or the county has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the county suitable for reproduction, clearly delineating the new corporate limits or new area for which the county has assumed or relinquished floodplain management regulatory authority must be included with the notification.
(Ord. 6-17-15)

Sec. 22-17-8A.21.5. Submitting technical data. [44 CFR 65.3]

Fluvanna County's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the county shall notify FEMA 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.
(Ord. 6-17-15)

Sec. 22-17-8A.21.6. Letters of Map Revision.

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12)

The public purpose for such amendment is to conform the zoning ordinance to federal flood insurance regulations.
(Ord. 6-17-15)

Sec. 22-17-9. Conditional rezoning.[18]

(A) As part of a rezoning or amendment to the zoning map, the owner of any property subject to any application for such rezoning or amendment to the zoning map, may voluntarily proffer, in writing submitted to the zoning administrator prior to a public hearing before the governing body, reasonable conditions for such rezoning or amendment to the zoning map, in addition to the regulations provided for the zoning district by this chapter, provided that such proffered conditions comply in full with all provisions of sections 15.2-2297 and 15.2-2298 of the Code of Virginia.

(B) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. No amendment or variation of conditions created pursuant to this section shall take effect until after a public hearing before the governing body advertised in accordance with section 15.2-2204 of the Code of Virginia. Except as the governing body may expressly provide in a particular case, each such condition shall be deemed to be integral to, and nonseverable from, the rezoning or amendment to the zoning map to which it applies.

(C) No proffer for the dedication of real property or payment of cash shall be accepted unless the county has adopted a capital improvement program pursuant to section 15.2-2239 of the Code of Virginia. No such dedication or cash payment shall be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program. If such 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.

[18] As to state law regarding conditional rezoning, see Code of Va., § 15.2-2296 et seq.

(D) In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

(E) Nothing is this section shall be construed to affect or impair the authority of the governing body to:

(1) Accept proffered conditions which include provisions for timing or phasing of dedications, payments or improvements; or

(2) Accept or impose valid conditions pursuant to subsection (A)(3) of section 15.2-2286 of the Code of Virginia or other provision of law.

(F) The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The zoning administrator is vested with all necessary authority on behalf of the governing body and pursuant to section 15.2-2299 of the Code of Virginia to administer and enforce conditions attached to a rezoning or amendment to a zoning map, though all decisions made pursuant to this Section are subject to appeal to the governing body according to the procedures described in section 15.2-2301 of the Code of Virginia.
(Ord. 12-16-15)

Sec. 22-17-10. Sewerage system required.

Every use, structure or building in which sanitary sewer facilities is required by the Uniform Statewide Building Code, or in which any such facility is proposed to be used, shall be served by a lawful public sewerage system or a private sewerage system approved by appropriate authority and designed in accordance with the regulations of the Virginia Department of Health. No administrative permit for any approval pursuant to this chapter shall be approved unless and until the applicant for such permit shall have established that such a system is available to the use, structure or building proposed. In the case of any septic

disposal system, the applicant shall demonstrate, to the reasonable satisfaction of the Fluvanna County Health Department and to the zoning administrator, that the parcel of land to be used for such use, structure or building is capable of supporting a primary septic disposal system as well as a full backup system adequate to serve the use proposed. (Ord. 9-17-08)

Sec. 22-17-11. Frontage and lot width requirements.

(A) Except as otherwise expressly provided in this chapter, every parcel of land shall abut a road dedicated to public use and maintained by the Virginia Department of Transportation. Except as specifically permitted in this section, frontage shall not be less than required by the regulations of the district in which the parcel is located.

(1) Frontage on a cul-de-sac may be reduced to not less than fifty feet (50'), provided that driveway separation shall be in accordance with the standards of the Virginia Department of Transportation and no more than five (5) lots shall have frontage on any one cul-de-sac.

(2) For a lot located at the end of an access easement, frontage shall not be less than the full width of the easement.

(3) Minimum required lot width at the setback line shall be the same as the minimum frontage required by the regulations of the district in which the parcel is located and shall not be reduced under this Section.

Sec. 22-17-12. Special provisions relating to open space.

(A) Open space defined: For purposes of this chapter, except as otherwise provided in this Chapter, "open space" shall mean land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets and roads and parking lots. The foregoing notwithstanding, the following shall be permitted in open space: (Ord. 9-17-08)

(1) Agriculture, forestry and fisheries, including appurtenant, non-residential structures, including, but not limited to, barns, sheds, fences and the like;

(2) Private, non-commercial recreational structures;

(3) Public utilities otherwise permitted;

(4) Wells and sewage disposal systems otherwise permitted;

(5) Stormwater detention and flood control devices.

(B) Designation and protection of open space: Open space shall be designated and shall be dedicated to public use or subject to easements in a form approved by the governing body and the county attorney as sufficient to restrict the land subject thereto as provided herein. Except as otherwise approved in a particular case, such easements shall be granted to the county or to the Commonwealth of Virginia. Any easement dedicated or granted in accordance with the terms of Chapter 10.1, Title 10.1 of the Code of Virginia (sections 10.1-1009, ff.) or with the terms of Chapter 17, Title 10.1 of the Code of Virginia (sections 10.1-1700, ff.) shall be deemed, prima facie, to be sufficient to satisfy this section.
(Ord. 9-17-08)

Sec. 22-17-13. Location of certain accessory buildings.

Except as otherwise expressly provided in this chapter, in the A-1, R-1 and R-2 districts, no accessory building shall be located within twenty-five feet (25') of any rear lot line or within fifteen feet (15') of any side lot line.

Sec. 22-17-14. Height regulations applicable to certain structures. [Repealed] (Ord. 9-21-11)[19]

Sec. 22-17-14.1. Special provisions related to amateur radio antennas. [Repealed] (Ord. 9-21-11)[20]

Sec. 22-17-15. Special exception for placement of manufactured home.

The zoning administrator may approve placement of a manufactured home in the event that a residence is destroyed or made unlivable by fire, flood, wind, or other natural causes, provided that placement shall be for a period not longer than twelve (12) months from the date of occurrence of the event, and also provided that written approval is obtained from the respective property owners association, if any. (Ord. 12-16-15)

Sec. 22-17-16. Special use permit for power production plants.

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[19] Prior ordinance references: 8-2-06.

[20] Prior ordinance references: 6-15-05.

(A) A power production plant may be constructed pursuant to Section 22-4-2.2 and Section 22-17-4 of this Chapter, upon showing by the applicant of the following:

(1) The proposed location for the power plant is supported by a clear dependence upon the confluence of utilities necessary for the operation of the power production plant and the transmission of the electricity the plant generates;

(2) The proposed power plant will not be of substantial detriment to adjacent property and the general character of the district will not be changed as a result of its operation. This shall be accomplished, in part, by meeting the following minimum criteria:

(a) The proposed site shall be a minimum of 300 acres and allow for at least eighty-seven (87%) of the property to be left as open space;

(b) The proposed site features natural vegetation or topographical features that provide for ample perimeter screening and buffering to minimize any visual or other impacts on adjacent property;

(c) The proposed location has adequate access to the road system and shall not create or exacerbate traffic congestion;

(3) In addition to meeting the minimum site-related criteria listed in (A)(2)(a), (b) and (c) above, the design of the proposed electrical power production plant shall be subject in all respects to the provisions of this Chapter except as listed in (A)(3)(a) through (e), below. These exceptions shall be deemed to be compatible with the general character of the district and provide further protection of adjacent property from potential adverse impacts:

(a) The height of any buildings or structures shall not exceed the lesser of 145 feet above ground level or the height of the tallest chimney as determined by paragraph (b) below;

(b) The height of any chimney shall not exceed the lesser of 145 feet above ground level or the height determined by "good engineering practice" as determined by the State Air Pollution Control Board or the Department of Environmental Quality pursuant to applicable regulations addressing stack heights;

(c) The amount of impervious surface coverage shall be thirteen percent (13%) or less, provided that storm water detention ponds or reservoirs shall be considered pervious surface(s);

(d) Any buildings or structures over twelve feet (12') in height shall be located a minimum of 300 feet distant from adjoining property lines or edge of road rights-of-way;

(e) There shall be a minimum of 300-foot wide vegetated buffer around the development which, in all other respects, conforms to the county landscaping requirements to be reviewed and approved along with the other requirements of a site development plan;

(4) In addition to obtaining zoning approval from Fluvanna County, the proposed power plant also will obtain and maintain valid permits as required by all other regulatory bodies of the state and federal governments.

(Ord.12-16-15)

Sec. 22-17-17. Public safety buildings exempt from certain requirements.

Except as otherwise expressly provided hereinafter, any building used exclusively for the provision of public safety services shall be exempt from the acreage, frontage, setback and yard requirements of this ordinance. The foregoing notwithstanding, reasonable acreage, frontage, setbacks and yards may be required by the county, in the review of a site plan, in any case in which it shall be determined that particular requirements relating to acreage, frontage, setbacks and yards are necessary to protect the public safety. For purposes of this section, the term "public safety services" shall be deemed to include (a) the Sheriff of the county; (b) the Virginia State Police; (c) any other police agency established under the laws of the Commonwealth and certified by the Sheriff as providing public police services within the county; and (d) fire and/or emergency medical services companies and departments as defined in Section 27-8.1 of the Code of Virginia.

Sec. 22-17-18. Necessary subordinate uses.

Notwithstanding any other provision of this Chapter, there shall be permitted in all districts all uses which are necessary, subordinate, incidental and essential to a lawful main use and which cannot reasonably be located entirely on the same parcel, or in the same district, as the main use. Such necessary subordinate uses shall include, but shall not necessarily be limited to, driveways and other means of physical access; utility facilities, including sewerage and water supply systems; required off-street parking; surface water drainage and stormwater management facilities and structures. (Ord. 03-15-06; Ord. 12-16-15)

Article 18. Provisions for Appeal and Variance.

Sec. 22-18-1. Board of zoning appeals.[21]

(A) A board consisting of five (5) members shall be appointed by the Circuit Court of Fluvanna County. Members of the board shall be residents of Fluvanna County. Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing court after hearing held after at least fifteen (15) days' notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(B) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the board shall hold no other public office in the county, except that one of the five appointed members may be an active member of the planning commission.

(C) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has a legal interest.

(D) The board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board.
(Ord. 12-16-15)

Sec. 22-18-1.1. Ex parte communications and proceedings.[22]

(A) The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law does occur, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication and the identity of the

[21] As to state law authorizing the formation of the county's board of zoning appeals, see Code of Va., § 15.2-2308.

[22] As to state law provisions regarding board of zoning appeals ex parte communications and proceedings, see Code of Va., § 15.2-2308.1.

individuals involved in the communication. For the purposes of this section, regardless of whether all parties participate, ex parte communication shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

(B) Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under section 15.2-2314 of the Virginia Code, as soon as practicable thereafter, but no more than three (3) business days after providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under section 15.2-2314 of the Virginia Code requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made in accordance with the FOIA requirements in section 2.2-3704 of the Virginia Code. Any such materials furnished to a member of the board shall also be made available for public inspection as required by section 2.2-3707(F) of the Virginia Code.

(C) For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the county attorney, or for the board, or who is appointed by special law. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff or any attorney where such communication is protected by attorney-client privilege or other similar privilege or the protection of confidentiality.

(D) This section shall not apply to cases where an application for a special exception has been filed pursuant to this Chapter.
(Ord. 12-16-15)

Sec. 22-18-2. Powers of the board of zoning appeals.[23]

The board of zoning appeals shall have the following powers and duties:

(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 ordinance or of any ordinance adopted pursuant thereto.

[23] As to state law regarding powers of the board of zoning appeals, see Code of Va., § 15.2-2309.

(1) 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.

(2) At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden to rebut such presumption of correctness by a preponderance of the evidence.

(3) The board shall consider any applicable ordinances, laws, and regulations in making its decision. For the purposes of this Section, determination means any order, requirement, decision or determination made by an administrative officer.

(4) Any appeal of a determination to the board shall be in compliance with this Section, 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 as defined by section 15.2-2201 of the Virginia Code. 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 as defined in section 15.2-2201 of the Virginia Code and the criteria set out in this section, as follows:

(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

(i) 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;

(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

(iii) 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;

(iv) the granting of such 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

(v) the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.

(2) No such variance shall be considered except after notice and hearing as required by section 15.2-2204 of the Code of Virginia, as amended; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to section 1.2-2309 of the Code of Virginia.

(3) In granting a variance the board 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 guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

(C) To hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by section 15.2-2204 of the Code of Virginia**;** however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to section 15.2-2309 of the Code of Virginia.

(D) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by section 15.2-2204 of the Code of Virginia, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to section 15.2-2309 of the Code of Virginia. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(E) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.
(Ord. 12-16-15)

Sec. 22-18-3. Rules and regulations.

(A) The board of zoning appeals may adopt, alter and rescind such rules and regulations for its procedures, consistent with to ordinances of the county and the general laws of the Commonwealth, as it may consider necessary.

(B) Meetings of the board shall be held at the call of its chairman or at such times a quorum of the board may determine.

(C) The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

(D) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(E) All meetings of the board shall be open to the public.

(F) A quorum shall be at least three (3) members.

(G) The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass or to effect any variance from the ordinance.

Sec. 22-18-4. Applications for variances, appeals to the board of zoning appeals.[24]

(A) Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. The zoning administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the board or appear as a party at the hearing. Substantially the same application will not be considered by the board within one year after the decision of the board.

[24] As to state law regarding appeals to the board of zoning appeals, see Code of Va., § 15.2-2311.

(B) An appeal to the board may be taken 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 order, requirement, decisions or determination made by any other administrative officer in the administration and enforcement of this Article, any ordinance adopted pursuant to this Article, or any modification of zoning requirements pursuant to this Chapter.

(1) Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal he notice of a zoning violation or a written order within thirty (30) days in accordance with this Section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this Section.

(2) Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof.

(3) Upon the filing of the appeal, the zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

(4) A decision by the board on appeal 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 notice of the zoning violation or written order of the zoning administrator. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order.

(5) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his 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 or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(6) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after sixty (60) days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The sixty (60) day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

(C) 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.
(Ord. 12-16-15)

Sec. 22-18-5. Appeal procedure.

(A) Applications for variance and appeals shall be filed with the board of zoning appeals in care of the zoning administrator.

(B) Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the governing body. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs, as provided in section 15.2-2311(A) of the Code of Virginia. (Ord. 9-21-05)

(C) All other procedural requirements of section 15.2-2312 of the Code of Virginia shall be observed by the board of zoning appeals**.**

(D) For the conduct of any hearing, a quorum shall not be less than three members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved, and the staff of the local governing body, pursuant to section 15.2-2308 of the Code of Virginia.

(Ord. 12-16-15)

Sec. 22-18-6. Public hearing.[25]

The board 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 decide the same within ninety days. In exercising its powers, the board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or 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 the ordinance. (Ord. 12-16-15)

Sec. 22-18-7. Certiorari to review decisions of board of zoning appeals.

(A) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board.

(B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(C) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(D) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(E) Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or person who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

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[25] As to state law regarding the timing of public hearing and powers of the board of zoning appeals, see Code of Va., § 15.2-2312.

(Ord. 12-16-15)

Sec. 22-18-7.1. Presumptions and burdens of proof.

(A) In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision, or any modification of zoning requirements, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. The court shall hear any arguments on questions of law de novo.

(B) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut the presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.

(C) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board (i) was plainly wrong, (ii) was in violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.

(D) In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.
(Ord. 12-16-15)

Article 19. Violation and Penalty.

Sec. 22-19-1. Conformity with Chapter.

All departments, officials and public employees of the county which are vested with the 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 in harmony with the provisions of this Chapter. Any such permit, if issued in conflict with the provisions of this Chapter, shall be null and void.

Sec. 22-19-2. Violation of Chapter.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $10.00 nor more than $1,000.00. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each successive ten (10) day period during which any portion of any violation of this ordinance is committed, continued, or permitted by such persons, firm or corporation, and shall be punishable by a fine of not less than $100.00 nor more than $1500.00.

Sec. 22-19-3. Authority of zoning administrator.

In addition to the foregoing, the zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of the ordinance, and the bringing of legal action to insure compliance with the ordinance, including injunction, abatement or other appropriate action or proceeding.

Article 20. Amendments and Rezoning.

Sec. 22-20-1. Power of governing body; initiation of change; fees.

The regulations, restrictions and boundaries established in this ordinance may from time to time be amended, supplemented, changed, modified or repealed by the governing body pursuant to section 15.2-2285 of the Code of Virginia as follows:

(A) By the filing with the zoning administrator of a petition by owners or the contract purchaser, with the owner's permission, of land proposed to be zoned, which petition shall be accompanied by a fee as prescribed by a fee schedule adopted by the governing body; or

(B) By the adoption of the board of supervisors of a resolution of intention to amend which resolution upon adoption shall be referred to the Planning Commission; or

(C) By the adoption by the Planning Commission of a resolution of intention to propose an amendment.

(D) Any such resolution by such governing body or commission proposing the rezoning shall state the above public purposes therefor.

(E) Any provision of this Chapter notwithstanding, except as otherwise expressly provided by law, none of the fees provided for in this Chapter shall apply to any property owned by the County and used for County purposes.

(Ord. 7-6-16)

Sec. 22-20-2. Planning commission -- Public hearing; recommendations.[26]

The planning commission shall hold at least one public hearing on such proposed amendments after notice as required by section 15.2-2204 of the Code of Virginia, and may make appropriate changes in the proposed amendment as a result of such hearing. In addition to the notice required by section 15.2-2204, the applicant shall cause a sign to be erected on the property which is the subject of any proposed amendment. Such sign shall be of a type approved by the zoning administrator and shall be posted on the subject property at the nearest public road or at its point of access to the nearest public road. Upon the completion of its work, the commission shall present the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials. (Ord. 2-18-15)

Sec. 22-20-3. Governing body -- Public hearing.[27]

Before approving and adopting any amendment, the governing body shall hold at least one public hearing as required by section 15.2-2204 of the Code of Virginia, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, however, that no land may be zoned to a more intensive use classification than was containing in the public notice without an additional public hearing after notice required by section 15.2-2204 of the Code of Virginia. In addition to the notice required by section 15.2-2204, the applicant shall cause a sign to be erected on the property which is the subject of any proposed amendment. Such sign shall be of a type approved by the zoning administrator and shall be posted on the subject property at the nearest public road or at its point of access to the nearest public road. An affirmative vote or at least a majority of the members of the governing body shall be required to amend the zoning ordinance. (Ord. 2-18-15)

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[26] Editor's Note – This section as adopted 4-5-04 contained a clerical error in the reference to the applicable statute. This error has been corrected by the editor.

[27] Editor's Note – This section as adopted 4-5-04 contained a clerical error in the reference to the applicable statute. This error has been corrected by the editor.

Sec. 22-20-4. Limitation on reconsideration.

Except as the governing body may permit in a particular case, substantially the same petition shall not be reconsidered for a period of one (1) year from the date of the original decision by the governing body.

Article 21. Administration and Interpretation.

Sec. 22-21-1. Administrator.

The ordinance shall be enforced by the administrator, who shall be appointed by the governing body. The administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the ordinance.

Sec. 22-21-2. Effect of enactment of ordinance.

Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was lawfully issued prior to the effective date of this ordinance. However, such construction must commence within thirty (30) days after this ordinance becomes effective. If construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this ordinance for the district in which the operation is located.

Sec. 22-21-3. Interpretation.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

(A) Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

(B) Where a district boundary is indicated to follow a river, creek or branch or other body of water, said boundary shall be construed to follow the center line at the low water or at the limit of the jurisdiction and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

(C) If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.[28]
(Ord. 12-16-15)

Sec. 22-21-4. Effective date.

This zoning ordinance of Fluvanna County, Virginia, shall be effective at and after 12:00 a.m., January 1, 1974. Each and every amendment hereto, except as otherwise expressly provided therein, shall be effective upon adoption.

Article 22. Definitions.

Sec. 22-22-1. Rules of construction; definitions.

The following terms shall have the meanings assigned to them as hereinafter set forth. Except as expressly otherwise defined herein, all terms used in this chapter shall have their ordinary and established meanings, as the context may require. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; 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.

Accessory use: A use or structure subordinate to the main use or structure on the same lot and serving a purpose naturally incidental to the main use or structure. When an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered a part of the main structure.

Adult retirement community: A planned development providing residences for elderly persons that emphasizes social and recreational activities but may also provide personal services, limited health facilities, and transportation.

Agricultural enterprise: Agricultural related use that provides an agricultural service or produces goods from agricultural resources. These include processes that are a direct

[28] As to state law provisions regarding district boundary lines, see Code of Va., § 15.2-2309(4).

outgrowth, yet more intensive, of the products derived through agriculture, as defined. Related uses include sawmill, winery and other similar facilities.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, aquaculture, horticulture, floriculture, viticulture, forestry, livestock, and poultry and the necessary accessory uses for packing, treating, or storing the produce.

Agricultural sales, wholesale: The wholesale distribution of agricultural related products including, but not limited to, farm tools and implements, tack, animal care products, and other farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but shall include harnesses, saddles, and other related equine equipment.

Alley: A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration: Any change in the total floor area, use or adaptability of an existing structure.

Amusement, commercial: The provision of entertainment or games of skill to the general public for a fee, as permitted by general law.

Amusement, public: Fund-raising activities including those activities sponsored by charitable organizations for which remuneration must be paid by sponsor.

Assisted living facility: A publicly or privately operated long-term care alternative for persons aged 55 and over, or persons with disabilities, as defined by the Federal Americans with Disabilities Act, that provides the availability of professionally managed personal and health care services to occupants on premises. These premises are designed for this population; are residential in character and appearance; may include cooking facilities; and in all respects are intended to enable residents to age in place in a home-like environment. The facility operation shall have the capacity to provide residents with an array of services supporting Activities of Daily Living (ADL's) that may include, but are not necessarily limited to, meals, personal care housekeeping, transportation, and supervision of self-administered medication, while optimizing their physical and psychological independence. Such facility shall be deemed a single unit for purpose of calculating density when and as required by section 15.2-2291 of the Code of Virginia. (Ord. 12-16-15)

Auction house: A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other, with all events and storage of inventory entirely enclosed in a building or structure.

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. See *Salvage and scrap yard* use.

Automobile repair service establishment: A facility for the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, or providing collision services, including body, frame, or fender repair, and overall painting.

Automobile sales: The use of any building, land area or other premises for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other repair service conducted as an accessory use.

Aviation facility: Facilities for the take-off and landing of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, informational facilities and devices, terminal buildings, aircraft maintenance facilities, aviation instruction facilities, and heliports.

Bakery: A place for preparing, cooking, baking, and selling of products on the premises.

Base flood/one-hundred year flood: A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Bed and breakfast: A transient lodging establishment, within an owner occupied property, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Berm: A mound of earth, usually linear in form, used to shield, screen, or buffer views; separate land uses; provide visual interest; or block noise, lights, or glare.

Bicycle parking: Bicycle racks and similar structures, permanently affixed to the ground, designed and used for storing bicycles in a secure, upright position.

Biotention area: A vegetated depression engineered to collect, store, and infiltrate runoff generated on-site.

Board of zoning appeals: The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

Boarding house: A building where, for compensation, lodging and meals are provided for at least five (5) and up to fourteen (14) persons.

Building: Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or property.

Building mass: The height, width, and depth of a structure

Building, height of: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

Building, main: The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

Butcher shop: A shop in which meat, poultry, and fish are processed and sold.

Cabaret, adult: A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas for observation by patrons therein. See *Entertainment establishment, adult* use.

Caliper: A measure of tree size, determined by measuring the diameter of a tree at a point six inches (6”) above the root ball, at the time of planting, or twelve inches (12”) above the ground, for established vegetation.

Camp: A tract of land, complete with all necessary and accessory uses and structures, used for organized recreational activities under trained supervision. Seasonal accommodations may be provided and such uses shall include boarding camps, day camps and summer camps.

Campground: An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar transportable or temporary sleeping quarters of any kind. For purposes of this definition, transient shall be for no more than 120 days.

Car wash: Facilities for the washing and cleaning of vehicles, including automatic and self-service car washes.

Cellar: The portion of the building partly underground, having half or more than half of its clear height below the average grade of the adjoining ground.

Cemetery, commercial: A place where human remains are interred, above or below ground, and where plots are sold for that purpose, and perpetual care of the graves is furnished. Such uses shall also allow for cemeteries for the burial of domestic animal remains.

Cemetery, non-commercial: A place where human remains are interred above or below ground and where plots are not sold. Such uses shall also allow for cemeteries for the burial of domestic animal remains.

Central sewerage system: A sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewage treatment plants, including, but not limited to, septic tanks and/or drain fields, or any of them designed to serve three (3) or more connections, used for conducting or treating sewage which is required to be approved by the board of supervisors in accordance with the Virginia Waste Management Act. See *Utilities, major* and *minor* uses. (Ord. 12-16-15)

Central water supply: A water supply consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, to serve or to be capable of serving three (3) or more connections, which is required to be approved by the board of supervisors in accordance with the Virginia State Water Control Board Regulations. See *Utilities, major* and *minor* uses. (Ord. 12-16-15)

Child day center: A child day program offered (i) to two (2) or more children under the age of thirteen in a facility that is not the residence of the provider or of any of the children in care or (ii) thirteen (13) or more children at any location. See also *Child day program, Family day home.* (Ord. 12-16-15)

Child day program: A regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of

thirteen for less than a twenty-four (24) hour period. See also *Child day center, Family day home.* (Ord. 12-16-15)

Cluster development: A development design technique that concentrates buildings on a portion of the site to allow the remaining land to be used for recreation, open space, or the preservation of historically or environmentally sensitive features.

Commission, The: The Planning Commission of Fluvanna County, Virginia.

Communications service: Establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as major utilities or telecommunication facilities. Typical uses include, but are not limited to, television studios, telecommunication service centers, radio stations, or film and sound recording facilities.

Comprehensive plan: The Fluvanna County Comprehensive Plan.

Condominium: A building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportionate undivided basis.

Condominium association: The community association that administers and maintains the common elements of a condominium.

Connection, water or sewer: The provision of water and/or sewerage services to any dwelling unit or commercial or industrial establishment.

Conservation area: Any parcel or area of substantially undeveloped land conserved in its natural state to preserve or protect endangered species, critical environment features, viewsheds, or other natural elements including, but not limited to, preserves, wildlife management areas and refuges, open spaces and habitat protection areas.

Contractor's storage yard: Storage yards operated by, or on behalf of, a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

Corporate office: An establishment primarily engaged in providing internal office administration services as opposed to customer service. Such uses generally include the headquarters, regional offices or administrative offices for a corporation.

Correctional facility: A public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from a surrounding community.

Cul-de-sac: The turnaround at the end of a dead-end street.

Cultural services: A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

Curvilinear street system: A pattern of streets that is primarily curved.

Dance hall: Establishments in which more than ten percent (10%) of the total floor area is designed or used as a dance floor, or where an admission fee is directly collected, or some other form of compensation is obtained for dancing, except when sponsored by civic, charitable, or nonprofit groups.

Daycare center: See *Child day center*, *Child day program*, and *Family day home*. (Ord. 12-16-15)

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 or storage of equipment or materials.

Diameter at breast height: A measure of tree size, determined by measuring the diameter of a tree at a point four and one-half feet (4.5') above the ground.

Dormitory: A residence hall providing rooms for individuals or for groups usually without private baths. Also, a large room containing numerous beds.

Dripline: A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

Drive-in window: A facility designed to provide access to commercial products and/or services for customers remaining in their automobiles.

Dwelling: Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, manufactured or mobile homes, and travel trailers.

Dwelling, accessory: A separate, independent dwelling unit located on the same property as the primary dwelling unit subject to the following: (1) A dwelling unit contained within a single-family dwelling that may equal the existing finished square footage of the primary dwelling, such as a basement, attic, or additional level; or (2) A dwelling unit attached to the primary single-family dwelling, or as a dwelling unit contained within a detached accessory unit; that shall be no more than one-half the size of the finished square footage of the primary dwelling unit located on the subject property. One accessory dwelling shall be permitted per property plus one additional accessory dwelling for each fifty (50) acres of contiguous property. Accessory dwelling units shall be subject to the setback requirements for primary structures.

Dwelling, multi-family: A building or portion thereof which contains two or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing and condominiums.

Dwelling, single-family attached: Two or more single family dwellings sharing two or more common walls, each on its own individual lot. Attached dwellings are not vertically stacked.

Dwelling, single-family detached: A building designed for occupancy by one family which has no connection by a common party wall to another building or structure similarly designed.

Dwelling, townhouse: A single-family attached dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

Dwelling, two-family: A building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

Dwelling unit: Any building or portion of building intended to be used for residential purposes by a single family and designed or arranged in such a manner that none of the

facilities or areas customarily provided for cooking, sleeping, eating sanitation, or other residential functions is shared by any other family or persons residing in the same structure.

Educational facility: A public or private institution for the teaching of children or adults including primary and secondary schools, colleges, and similar facilities.

Egress: An exit.

Elevated building: A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers). (Ord. 6-17-15)

Entertainment establishment, adult: Any adult cabaret, adult motion picture theater, or adult video-viewing or arcade booth.

Equestrian facility: Facilities designed and used primarily for equestrian related activities including, but not limited to: riding schools, horse exhibition facilities, polo fields, and pack stations. This includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

Evergreen: A plant with foliage that remains year-round.

Family: (1) An individual; or

- Two (2) or more persons related by blood, marriage, adoption, or guardianship, plus not more than (2) unrelated persons living together as a single housekeeping unit in a dwelling or dwelling unit; or

- A group of not more than four (4) persons not related by blood, marriage, adoption or guardianship living together as a single housekeeping unit in a dwelling or dwelling unit.

- A group home of eight (8) or fewer people residing in a single-family residence as described in section 15.2-2291 of the Code of Virginia.

Family day home: A child day program offered in the residence of the provider or the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen, exclusive of the provider's own children and any children who reside in the home,

when at least one (1) child receives care for compensation. Family day homes service six (6) through twelve (12) children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four (4) children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed. See also *Child day center, Child day program.* (Ord. 12-16-15)

Family daycare home: See *Child day center, Child day program,* and *Family day home.* (Ord. 12-16-15)

Farm: One or more parcels of land used for the primary purpose of agricultural production.

Farm tenant housing: A dwelling located on a farm for the purpose of housing an employee of that farm operation and his/her family. Also included in this use type would be multi-family dwelling(s) for seasonal employees in connection with an orchard or other agricultural use which relies on seasonal employees who must be housed.

Farm sales: The sale of agricultural produce or merchandise produced primarily by the resident operator on his farm.

Financial institution: An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies, such as: trust companies, savings banks, industrial banks, savings and loan associations, building and loan associations, commercial banks, credit unions, federal associations, and investment companies.

Flea market: A market held in an open area or building where goods are offered for sale to the public by individual sellers, generally on an occasional or periodic basis.

Flood: A general or temporary condition of partial or complete inundation of normally dry land areas.

Flood, Base: The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood. (Ord. 6-17-15)

Flood Elevation, Base: The Federal Emergency Management Agency designated one hundred (100) year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the Fluvanna County FIRM. (Ord. 6-17-15)

Flood Hazard Area, Special: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 17, Section 22-17-8A. of this ordinance. (Ord. 6-17-15)

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated by water from any source. (Ord. 6-17-15)

Floodplain 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.

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 (1'), at any point. (Ord. 6-17-15)

Floor area ratio: The gross floor area of all buildings or structures on a lot divided by the total lot area.

Footcandle: A quantitative unit of measure referring to the measurement of illumination incident at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.

Frontage: The continuous uninterrupted distance along which a parcel abuts a single adjacent road or street.

Funeral home: A facility for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. Typical uses include funeral homes or mortuaries.

Garden center: A retail business in which plants, which may or may not be cultivated on-site, are offered for sale to the general public. Supplemental items used in planting and landscaping, such as pre-packaged mulch, pre-packaged topsoil, plant containers, yard ornaments, hand tools, and the like, may be sold on-site as secondary or incidental items. Such a use is not characterized by frequent heavy equipment operation, other than the occasional delivery or shipment of product.

Gas station: Any place of business used primarily for the storage, dispersal, sale or offering of fuels and oils for motor vehicles. Such uses may also include the retail sale of

convenience items as a secondary activity. Any use associated with automobile fuel sales shall be considered a gas station.

Governing body: The Board of Supervisors of Fluvanna County, Virginia.

Greenhouse, commercial: A facility employing a glass, plastic, or similar enclosure for the cultivation of plants, in which plants are offered for sale to the public, either at wholesale or at retail. Supplemental items used in planting and landscaping, such as mulch, topsoil, plant containers, yard ornaments, hand tools, and the like, may be sold on-site as secondary or incidental items. Such a use is not characterized by frequent heavy equipment operation, other than the occasional delivery or shipment of product.

Greenhouse, non-commercial: A facility employing a glass, plastic, or similar enclosure for the cultivation of plants, in which no product is offered for sale to the public.

Greenway: (1) A linear open space established along either a natural corridor, such as a riverfront, stream valley, or ridge line, or over land along a railroad right-of-way converted to recreational use. a canal, a scenic road, or other route; (2) any natural or landscaped course for pedestrian or bicycle passage; (3) an open space connector lining parks, natural reserves, cultural features, or historic sites with each other and with populated areas; and (4) locally, certain strip or linear parks designated as a parkway or greenbelt.

Grocery store: A retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may also engage in incidental sales of prepared foods for personal consumption on- or off-site.

Group home: A licensed residential facility in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance. Such facility shall be licensed by the Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, in order to qualify as a single-family use.

Guidance services: A use providing counseling, guidance, recuperative, or similar services for person requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a twenty-four (24) hour day.

Halfway house: An establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services to persons suffering from alcohol or

drug addiction, to person re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

Health official: The legally designated health authority of the State Board of Health for Fluvanna County or his authorized representative.

Historical area: As indicated on the zoning map to which the provisions of this chapter apply for protection of a historical heritage.

Historic structure: Any structure that is (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program as determined by the Secretary of the Interior; or (b) directly by the Secretary of the Interior in states without approved programs.

Home occupation: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, no one is employed other than members of the family residing on the premises, there is no substantial increase in traffic, and provided that not more than twenty-five (25%) of the gross floor area of such dwelling shall be used for such occupation.

Homeowners association: A community organization, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medial offices, and staff residences.

Hotel: A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day, week or month. Such uses

generally provide additional services such as daily maid service, restaurants, meeting rooms and/or recreation facilities. Such uses include hotels, motels, motor lodges, and motor courts.

Hunt club: Areas reserved to members of the club for private hunting of wildlife, fishing, and accessory uses in support of those activities.

Hunting preserve: An area licensed by the commonwealth for public or private hunting of wildlife, fishing, and accessory uses in support of those activities.

Impervious surface: Any material that prevents absorption of stormwater into the ground.

Indoor entertainment: Predominantly spectator uses conducted within an enclosed building, but not including public facilities. Typical uses include, but are not limited to, motion picture theaters, and concert or music halls.

Indoor recreation facility: Predominantly participant uses conducted within an enclosed building, but not including public facilities. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

Inoperable motor vehicle: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle 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 (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal, as provided in section 15.2-904 of the Code of Virginia. (Ord. 12-16-15)

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, and the term shall include garbage dumps and sanitary fills. See *Salvage and scrap yard* use.

Kennel, commercial: A place designed and used to house, board, breed, handle or otherwise keep or care for dogs, cats, or other household pets for the specific intent of sale or in return for compensation.

Kennel, private: The keeping, breeding, raising, showing, or training of four (4) or more dogs, cats, or other household pets over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.

Landscaping materials supply: A business used primarily for the bulk storage and sale of landscaping supplies, such as soil, gravel, potting mix, mulch, sand, stone, and the like, either wholesale or at retail, necessitating the frequent use of heavy equipment. Plants and supplemental items used in planting and landscaping, such as plant containers, yard ornaments, hand tools, and the like, may be sold on-site as secondary or incidental items.

Laundromat: A building where clothes or other household articles are washed in self-service machines and where such washed clothes and articles may also be dried or ironed.

Laundry: Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal Service Establishments. Typical uses include, but are not limited to, bulk laundry and cleaning plants, diaper services, or linen supply services.

Level of service: A description of traffic conditions along a given roadway or at a particular intersection.

Livestock feed lot, commercial: A commercial establishment where livestock is fattened for sale and where feed is transported from other places.

Livestock sale yard, commercial: A commercial establishment wherein livestock is collected for sale or auctioning.

Lodge: A facility, owned or operated by a corporation, association, person or persons, for social, educational or recreational purposes, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business. A lodge does not include facilities for members to reside.

Lot: A parcel of land, including a residue, described by metes and bounds or otherwise or shown on a plat, and intended as a unit of real estate for the purpose of ownership, conveyance or development.

Lot, corner: A lot abutting upon two (2) or more street rights-of-way at their intersection. Of the two sides of a corner lot, in the absence of evidence to the contrary based

on actual development, the front shall be presumed to be the shorter of the two sides fronting on streets.

Lot, depth of: The average horizontal distance between the front and rear lot lines.

Lot, double frontage: An interior lot having frontage on two (2) streets.

Lot, interior: Any lot other than a corner lot.

Lot, pipestem: A large lot not meeting minimum frontage requirements and where access to the public road is by a narrow private right of way or driveway.

Lot, reverse frontage: A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

Lot, through: A lot that fronts upon two (2) parallel streets or that fronts upon two (2) streets that do not intersect at the boundaries of the lot.

Lot, width of: The average horizontal distance between side lot lines.

Lot of record: A lot, a plat or description of which has been recorded in the clerk's office of the Circuit Court.

Low-impact development: A design strategy with the goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques to create a functionally-equivalent site design. Hydrologic functions of storage, infiltration and groundwater recharge, as well as the volume and frequency of discharges, are maintained through the use of integrated and distributed micro-scale stormwater retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow time. Examples of low-impact development techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters.

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 §60.3.

Lumberyard: An area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, plywood, drywall, paneling, concrete masonry unit (CMU) blocks and other concrete products, but not including the manufacture of such products.

Machine shop: Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

Manufactured home: A factory-built, single-family structure that is manufactured under the authority of the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. Also referred to as mobile homes.

Manufactured home sales: Establishments primarily engaged in the display, retail sale, rental, and repair of new and used manufactured homes, modular homes, parts, and equipment.

Manufacturing, Heavy: The manufacture or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.

Manufacturing, Light: The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing.

Manufacturing, Medium: The processing and manufacturing of materials or products predominantly from extracted or raw materials. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process.

Marina, commercial: A marina designed and operated for profit or operated by any club or organized group where hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

Marina, private: A marina, including a dock for the use of a single parcel, designed and intended to be used for mooring of boats owned by residents of the general neighborhood with no commercial facilities other than those necessary for minor servicing and repairs.

Media, adult: Magazines, books, videotapes, movies, slides, CD-ROMs, DVDs or blu-ray or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. See *Retail store, adult* use. (Ord. 12-16-15)

Medical clinic: A facility providing medical, psychiatric, or surgical service for persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. The term, "medical clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

Mining: The breaking or disturbing of the surface soil or rock in order to facilitate or accomplish the extraction or removal of minerals; any activity constituting all or part of a process for the extraction or removal of minerals so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction. Nothing herein shall apply to mining of coal. This definition shall not include, nor shall this title, chapter, or section be construed to apply to the process of searching, prospecting, exploring or investigating for minerals by drilling (section 45.1-180 of the Virginia Code). See *Resource extraction* use.

Mobile home: See *Manufactured home.*

Manufactured Home Park: Any site, lot, field or tract of land which is held out for the locations of occupied trailers which trailers or lots are intended for use by a person or persons other than the property owner, except as otherwise permitted in this chapter.

Modular home: A dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation.

Motion picture theater, adult: An establishment that shows sexually oriented movies, distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas as a significant part of its business. See *Entertainment establishment, adult* use.

Mural: A work of art (as a painting) applied to and made integral to a building wall, fence, etc., that is prepared by, or under the direction of, a skilled artist and shows imaginative skill in arrangement or execution and specifically not attempt to advertise any specific business, product or service.

Natural meadow: A continuous area designated on a landscape plan that is planted with grasses and wildflowers native to Virginia that are allowed to grow in their natural habit. Such areas are actively managed to prevent the growth of woody vegetation and invasive species.

Nonconforming activity, nonconforming use: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located.

Nonconforming lot: An otherwise legally platted lot that does not conform to the minimum area or width requirements of the ordinance for the district in which it is located.

Nonconforming structure: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot, coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located.

Nursery: A place where plants are grown commercially, either for retail or wholesale distribution. Plants cultivated on-site may be offered for sale to the general public. See *Farm sales* use.

Nursing home: Any place, institution, facility or any identifiable component of any facility, other than a hospital, licensed pursuant to section 32.1-123 of the Code of Virginia, in which the primary function is the provision, on a continuing basis, of nursing and health-related services for the treatment and inpatient care of two (2) or more nonrelated individuals, including, but not limited to, facilities known as convalescent homes, skilled nursing facilities, skilled care facilities, intermediate care facilities, extended care facilities, and nursing, or nursing care facilities. (Ord. 12-16-15)

Office: A room, suite of rooms, or building used for conducting the affairs of a business, profession, service industry, or government.

Off-street parking area: Space provided for vehicular parking outside the dedicated street right of way as required by Article 26 (Sec. 22-26-1 through 22-26-8) of this chapter.

Outdoor entertainment: Predominantly spectator uses conducted in open or partially enclosed or screened facilities, but not including public facilities. Typical uses include, but are not limited to, sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

Outdoor gathering: Any temporary organized gathering expected to attract 200 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be entertainment and music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section. Such activities held in public parks or on public school property shall not be included within this use type.

Outdoor recreation facility: Predominantly participant uses conducted in open or partially enclosed or screened facilities, but not including public facilities. Typical uses include, but are not limited to, golf courses, driving ranges, tennis courts, motorized cart and motorcycle tracks, paintball facilities, swimming pools, athletic ball fields.

Package Treatment Plant: Small, self-contained sewage treatment facility built to serve designated service areas. See *Utility, major* use.

Parking area: Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

Parking bay: A continuous row of parking, containing twenty (20) parking spaces or less, bounded on both ends by a parking island, as specified in Article 26: Off-Street Parking and Loading Spaces of this Chapter. (Ord. 12-16-15)

Parking facility: A site for surface parking or a parking structure use which provides one (1) or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use. This use type excludes temporary parking facilities permitted by County Code.

Pavers: Preformed paving blocks that are installed on the ground to form patterns while at the same time facilitate pedestrian and vehicular travel.

Personal improvement services: Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses

include, but are not limited to, driving schools, health or physical fitness studios, dance studios, handicraft and hobby instruction.

Personal service establishment: An establishment or place of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops; dry cleaners; and seamstresses, tailors, and shoe repair.

Pervious surface: Any material that permits full or partial absorption of stormwater into previously unimproved land.

Petroleum Distribution Facility: A facility for the storage and distribution of fuels or other volatile products.

Pharmacy: An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

Plat: A schematic representation of a parcel or subdivision.

Plat, preliminary: A plat showing the existing boundaries and certain existing features of a parcel to be subdivided, together with the property lines or proposed lots and certain proposed features and improvements.

Plat, final: A plat showing the new property lines and certain features and improvements installed pursuant to the preliminary plat, showing their location as built, and prepared for recordation. Final plat approval gives the subdivider the right to record such plat with the Clerk of the Circuit Court and to convey the individual lots shown thereon.

Professional school: A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills, or other similar activity or occupational pursuit, but not including educational facilities.

Property Owners' Association: An entity established, pursuant to section 55-508 et seq. of the Code of Virginia, or otherwise, for the purpose of maintaining land or property owned in common by the owners of property in a subdivision.

Public assembly: Facilities that accommodate public assembly for purposes such as sports, amusements, or entertainment. Typical uses include, but are not limited to, auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

Public park and recreational area: Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses but not including public recreation assembly.

Public recreation assembly: Publicly owned and operated community, civic, or recreation centers, year-round swimming facilities, or indoor performing arts/auditoriums.

Public safety facility: Public agency facilities that provide public safety and emergency services including fire, rescue squad, and police stations and related administrative facilities. See *Public use*.

Public use: Uses, structures, and facilities made available for public service including, but not limited to, parks, playgrounds, libraries, public safety and emergency facilities, and administrative buildings.

Public water and sewer system: A water or sewer system owned and operated by a municipality, county or other political subdivision of the Commonwealth.

Pumping station: A building or structure containing the necessary equipment to pump a fluid to a higher level.

Railroad facility: Railroad yards, equipment servicing facilities, and terminal facilities.

Recreation, active: Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

Recreation, passive: Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, and table games.

Recreational vehicle: A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projects; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, traveling, or seasonal use.

Recreational vehicle sales: Retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

Rectilinear street pattern: A pattern of streets that is primarily characterized by right-angle roadways, grid pattern blocks, and four-way intersections.

Religious assembly: A use providing regular organized religious worship or related incidental activities, except primary or secondary schools and day care facilities.

Research laboratory: A facility for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential area (gross): The total area of land and water within a residential development.

Residential area (net): That area of land and water within a development designed for residential purposes and unoccupied by streets, open space or parking areas; provided that individual private driveways accessory to residential uses shall not be considered streets or parking areas.

Residential density (gross): The total number of dwelling units within a development divided by the gross residential area and expressed in dwelling units per acre.

Residential density (net): The total number of dwelling units within a development divided by the net residential area and expressed in dwelling units per acre.

Residue: The remainder of a lot after a subdivision has detached one or more lots, which residue shall be deemed, for purposes of this chapter, to be a new lot.

Resource extraction: A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

Restaurant, fast food: An establishment primarily engaged in the preparation of food and beverages, for take-out, delivery, or consumption on the premises, served in disposable containers at a counter or to drive-up or drive-thru customers in motor vehicles.

Restaurant, general: An establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

Restaurant, small: An establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and typically characterized by table service to customers.

Retail store, adult: An establishment that: offers for sale or rent items from any of the following categories: (a) adult media, (b) sexually oriented goods, or (c) goods marketed or presented in a context to suggest their use for specified sexual activities; and the combination of such items constitutes more than fifteen percent (15%) of its stock in trade or occupies more than fifteen percent (15%) of its gross public floor area; and where there is no on-site consumption of the goods, media, or performances for sale or rent.

Retail store, general: A retail sales establishment offering the sale or rental of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by definition.

Retail store, large-scale: A retail sales establishment of more than 30,000 square feet of gross floor area engaged in the sale or rental of goods for consumer or household use.

Retail store, neighborhood convenience: A retail sales establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as, but not limited to, prepackaged food and beverages, limited household supplies and hardware, and limited food preparation and service. Such uses that include fuel pumps or the selling of fuel for motor vehicles shall be considered gas stations.

Retail store, specialty: A retail sales establishment of not more than 4,000 square feet that specializes in one type or line of merchandise or service including, but not limited to, antique stores, bookstores, shoe stores, stationary stores, jewelry stores, auto parts stores, and hardware stores.

Right-of-way: A strip or other portion of a parcel of land conveyed to a person, a partnership, a property owners' association, a corporation, or a government agency for the purpose of constructing and maintaining a road or utility facility, or similar use.

Riparian protection area: A vegetated zone adjacent to an intermittent or perennial stream where development is restricted or controlled to minimize the effects of development

on local water quality. Indigenous vegetation, including existing ground cover, is preserved to the maximum extent possible.

Salvage and scrap yard: Facilities engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in the original forms. Typical uses include, but are not limited to, paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.

Sanitary landfill: A place for the disposal of solid wastes approved in accordance with the regulations of the Department of Environmental Quality (DEQ).

Sawmill, permanent: A permanent facility where logs or lumber are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products.

Sawmill, temporary: A portable sawmill located on private property for not more than sixty (60) days unless used for the processing of timber cut only from that property or the property immediately contiguous thereto.

Self-storage facility: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Setback: The minimum distance by which any building or structure must be separated from the front lot line.

Sheltered care facility: A facility providing temporary sheltering for the homeless or for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

Shooting, private recreational: The use of land for target shooting and other recreational activities, other than hunting, involving the use of firearms or other projectiles by the owner or occupant of a parcel and their guests, not in return for compensation. Associated facilities shall be subject to approval by the zoning administrator in accordance with safety guidelines issued by the National Rifle Association (NRA) or other recognized authority.

Shooting range, indoor: The use of a structure for firearms or other projectiles for the purpose of target practice or competitions, and in return for compensation.

Shooting range, outdoor: The use of land for shooting clubs and other facilities for the discharge of firearms or other projectiles for the purposes of target practice, skeet and trap shooting, mock war games, or formal competitions, or in return for compensation.

Shrub: A low woody plant, with multiple shoots or stems from the base, which attains a mature height of less than fifteen feet (15').

Sign: Any object, device, display, or structure that 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, design, symbols, fixtures, colors, illumination, projected images, or any combination thereof.

Sign, auction: A temporary sign, not illuminated, advertising an auction to be conducted on the lot or premises upon which it is situated, such signs shall not exceed twenty (20) square feet in area. (Ord. 12-16-15)

Sign, awning: A sign that is painted or otherwise applied on or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, or window of a building.

Sign, banner: A temporary sign, not exceeding thirty-two (32) square feet, made of fabric or other flexible material, suspended from a fixed structure, rope, wire, string, or cable. Banner signs are for the advertising of a special event, product, or group and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year. (Ord. 12-16-15)

Sign, business: A sign which directs attention to a product, commodity, or service available on the premises including professional offices or institutional use.

Sign, canopy: A type of wall sign that is attached to the fascia of a canopy.

Sign, construction: A temporary sign that identifies an architect, engineer, contractor, subcontractor, or material supplier who participates in construction on the property on which the sign is located. Such signs shall not exceed thirty-two (32) square feet in area and eight (8) feet in height, and may be erected once the land disturbance permit has been issued for the property and must be removed upon issuance of a final certificate of occupancy. (Ord. 12-16-15)

Sign, directional: A sign, not to exceed four (4) square feet, providing on-premise directions for pedestrian and vehicular traffic including, but not limited to, entrance/exit signs, parking areas, loading zones, and circulation direction.

Sign, directory: A sign that lists the names, uses, or locations of the businesses or activities conducted within a building or group of buildings of a development.

Sign, electronic message: A monument sign or portion thereof in which the copy is composed of a series of lights that may be changed through electronic means. The total area of the electronic message display area for such signs shall not exceed thirty percent (30%) of the total area of the sign area permitted for that site.

Sign, estate: An on-premise sign that identifies the name, occupant, and/or street address of a private residence, property, or farm. Such signs shall not exceed nine (9) square feet.

Sign face: The area or display surface used for the message.

Sign, flashing: An illuminated sign of which all or part of the illumination is flashing or intermittent, or changing in degrees of intensity, brightness or color. Electronic message signs that meet the requirements this Article and Section 22-15 shall not be considered flashing signs.

Sign, freestanding: A sign anchored directly to the ground or supported by one or more posts, columns, or other vertical structures or supports, and not attached to or dependent for support from any building.

Sign, home occupation: A sign containing only the name and occupation of a permitted home occupation on the premises.

Sign, illuminated: A sign, or any part of a sign, which is externally or internally illuminated or otherwise lighted from a source specifically intended for the purpose of such illumination or lighting.

Sign, inflatable: Any display capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

Sign, monument: A sign affixed to, and made an integral part of, a structure built on grade that does not involve the use of poles as its major support.

Sign, moving: A sign, any part of which moves by means of an electrical, mechanical, or other device, or that is set in motion by wind.

Sign, nonconforming: A sign lawfully erected and maintained prior to the adopting of this ordinance that does not conform with the requirements of this ordinance.

Sign, off-premise: A sign that directs attention to a business, product, service or establishment, conducted, sold or offered at a location other than the premises on which the sign is erected.

Sign, on-premise: Any sign identifying or advertising a business, person, property, activity, goods, products, or services, located on the premises where the sign is installed and maintained.

Sign, pennant: A sign, with or without a logo, made of flexible materials suspended from one or two corners, used in combination with other such signs to create the impression of a line, such as streamers.

Sign, political: A temporary sign expressing or implying the opinion or opinions of an individual or group intended to influence the election or appointment of government officials and/or to influence the actions, policies and /or conduct of government. (Ord. 10-18-00; Ord. 12-16-15)

Sign, portable: A sign that is not permanently affixed to the ground or to a permanent structure, or a sign that can be moved to another location including, but not limited to, signs with attached wheels, signs mounted upon or applied to a trailer, or signs mounted on or applied to a vehicle that is parked and visible from the public right-of-way.

Sign, projecting: A sign, attached to and supported by a building or wall, that projects out perpendicularly from that wall more than twelve inches (12”) but not more than four feet (4’).

Sign, public: A sign that is erected and maintained by a federal, state, or local government agency.

Sign, real estate: A sign pertaining to the sale or lease of the premises on which the sign is located. Such signs shall not exceed nine (9) square feet.

Sign, roof: A sign that is mounted on the roof of a building or which extends above the top edge of the wall of a flat-roofed building, above the eave line of a building with a hip, gambrel, or gable roof, or the deck line of a building with a mansard roof.

Sign structure: The supports, uprights, bracing and/or framework of any structure, be it single-faced, double-faced, v-type or otherwise exhibiting a sign.

Sign, subdivision: A monument sign erected at the entrance of a residential, commercial, or industrial development that identifies the development.

Sign, temporary: A sign for the advertising of a special event, product, group, occurrence, speaker, program or seasonal activity and not intended or designed for permanent display, including by way of example and not limitation, signs advertising an event, election, or campaign of an educational, political, religious, civic, philanthropic or historical organization. Temporary signs shall be posted a reasonable time before, but in no event greater than sixty (60) days prior to such event, as defined herein, and shall be removed a reasonable time after, but in no event greater than ten (10) days after such event, as defined herein. Temporary signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. (Ord. 12-16-15)

Sign, temporary directional: A temporary sign directing individuals to the location of a special event or gathering. (Ord. 12-16-15)

Sign, temporary subdivision advertising: A sign erected on a parcel or at the entrance to a residential, commercial, or industrial subdivision that identifies the name of the development and advertises for sale lots within the development. Such signs shall be permitted for six (6) month increments, with a letter requesting renewal from the applicant for additional six (6) month increments and to be removed upon issuance of a permit for the placement of a permanent subdivision sign.

Sign, wall: A sign mounted flat against, or painted on, the exterior wall of a building or structure and not projecting more than twelve inches (12”) from the surface of the building, unless on the mansard portion of a roof.

Sign, warning: A sign located on a property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity. (Ord. 12-16-15)

Sign, window: A permanent or temporary sign affixed to the interior or exterior of a window or door, or within three feet (3’) of the interior of the window or door; provided that the display of goods available for purchase on the premises is not a window sign. Such signs

shall not exceed twenty-five percent (25%) of the total area of the window or door on which it is located.

Sketch plan: An informal conceptual map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion.

Slaughterhouse: A commercial facility where livestock is slaughtered, processed, and prepared for distribution to butcher shops or retail establishments such as grocery stores.

Small Home Industry: Small commercial, professional, or light industrial uses which do not in any way detract from adjacent agricultural or residential uses and while clearly excluding large scale industrial and commercial uses and that are located within the same parcel as the residence of the owner and within 500 feet of said residence.

Solid Waste Material Recovery Facility: A solid waste management facility which may receive municipal solid waste and recyclables from off premises for processing and consolidation and shipment out of the county for further processing or disposal.

Solid Waste Collection Facility: Any storage or collection facility which is operated as a relay point for recyclables or municipal solid waste which ultimately is to be shipped for further processing or disposal. No processing of such items occurs at such facility.

Source shielded illumination: A source of illumination shielded to prevent direct viewing of the light source, including bulbs, lenses or any portions thereof. The only light that can be seen is that reflected from the sign.

Special use permit: A permit issued by the governing body for a use which is only permitted upon such permit; a special exception. See Article 17 of this chapter.

Specified anatomical areas:

(1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities: Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Story: That portion of building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, 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 wallface more than three feet (3') above the floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use.

Stream, intermittent: A natural stream or portion of a natural stream containing flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Such streams are defined as a dotted blue line on the 1:24,000 USGS topographic maps.

Stream, natural: A non-tidal waterway that is part of the natural topography, which typically maintains a continuous, seasonal, or intermittent flow during the year, and which is characterized as being irregular in cross-section with a meandering course. A constructed channel such as a drainage ditch or swale is not a natural stream.

Stream, perennial: A natural stream or portion of a natural stream containing flowing water year-round during a year of normal precipitation. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow. Such streams are defined as a solid blue line on the 1:24,000 USGS topographic maps.

Street (road): Any vehicular way that: (1) is an existing state roadway; (2) is shown upon a plat approved pursuant to the subdivision ordinance that is duly filed and recorded.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings and buildings, etc.

Structure, main: A building in which is conducted the principal use of the lot.

Studio, fine arts: A building, or portion thereof, used as a place of work by a sculptor, artist, or photographer; or used as a place to exhibit and offer for sale works of the visual arts (other than film).

Subdivider: Any individual, partnership, corporation or other entity or association thereof owning or having an interest in land, or representing the owners of any land and proposing to subdivide such land.

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer, or ownership, or building or lot development. The term shall include the resubdivision of land.

Subdivision Agent: The individual appointed and authorized by the Fluvanna County Board of Supervisors to administer and enforce this Chapter.

Subdivision, family: A single division of a lot or parcel for the purpose of a gift or sale to any natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.

Subdivision, major: The division of a parcel of land into six (6) or more lots, and not a family subdivision. A subdivision shall be deemed to be a major subdivision if the parcel from which such subdivision is divided was, within five (5) years next preceding the application, divided into an aggregate of five or more lots or divided in such a way as to create a new public or central water or sewer system or one or more public streets.

Subdivision, minor: Any division of a parcel of land creating fewer than six (6) lots, and not a family subdivision.

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 fifty percent (50%) of the market value of the structure before the damage occurred. (Ord. 6-17-15)

Substantial improvement: Any reconstruction, rehabilitation, addition, or other 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: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Taxidermist: Establishments for conducting the business of preparing, stuffing, and mounting the skins of animals to make them appear life-like.

Telecommunications facility: A tower, pole or similar structure, 125 feet or greater in height, that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications. Includes antennas, microwave dishes, horns, and all equipment and structures necessary to support said equipment.

Traffic impact study: A report analyzing anticipated roadway conditions.

Trailer: See *Manufactured home.*

Transportation terminal: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of ground transportation, including bus terminals, railroad stations, and public transit facilities.

Travel trailer: A vehicular, portable structure built on chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification "travel trailer" thereon; and when factory equipped for the road. See *Recreational vehicle*.

Tree canopy: All areas of coverage by plant material exceeding ten feet (10’) in height at a maturity of ten (10) years after planting, in accordance with Article 24: Landscaping and Tree Protection of this Chapter.

Tree, evergreen: A tree with foliage year-round, planted primarily for screening or ornamental purposes, which attains a mature height of at least fifteen feet (15’).

Tree, large shade: A tree, usually deciduous, planted primarily for overhead canopy, which attains a mature height of at least forty feet (40’).

Tree, mature: An existing tree with a diameter at breast height (DBH) of twelve inches (12”) or greater, which is in healthy condition as determined by a certified landscape architect or arborist.

Tree, medium shade: A tree, usually deciduous, planted primarily for overhead canopy, which attains a mature height of twenty-five feet (25’) to forty feet (40’).

Tree, ornamental: A tree, either single-stemmed or multi-stemmed, noted for its flowers, leaves, bark, form, shape, and/or other aesthetic characteristics, which attains a mature height of ten feet (10') to thirty feet (30').

Tree, street: A shade tree planted along an existing or proposed public street, either within the right-of-way itself or within a landscape strip continuous to such right of way.

Truck terminal: A facility for the receipt, transfer, short-term storage, and dispatching of good transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.

Underground utilities: The placement of electric, telephone, cable, and other utilities customarily carried on poles in underground vaults or trenches.

Upholstery shop: A business that repairs and replaces upholstery to household and office furnishings.

Utility: All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

Utility, Major: Facilities for the distribution, collection, treatment, production, transmission and generation of public, private and central utilities including, but not limited to, transmission lines, production plants, electrical substations, pumping stations, treatment facilities, information and communication facilities. (Ord. 12-16-15)

Utility, Minor: Facilities for the distribution and collection of public, private and central utilities including poles, lines, transformers, pipes, meters, information and communication distribution lines. (Ord. 12-16-15)

Variance: A variance is a reasonable deviation from the provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning. (Ord. 12-16-15)

Vehicle trip: A motor vehicle moving from an origin point to a destination point.

Vending cart: The vending of food, beverages, or merchandise from a movable stand or trailer that is located as an accessory use on the same lot as a permitted use.

Veterinary office: An establishment for the care and treatment of animals and where the boarding of said animals is prohibited except when necessary in the medical treatment of the animal.

Video-viewing booth or arcade booth, adult: An enclosure designed for occupancy by no more than five persons, used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media, or live performances or lingerie modeling, for observation by patrons therein. See *Entertainment establishment, adult* use.

Village: A small, compact center of predominantly residential character but with a core of mixed-use commercial, residential, and community services whether or not incorporated as a municipality.

Warehouse, wholesale: Facilities for the display, storage, and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment, including moving and storage facilities, warehouses, storage activities, and distribution centers.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Woodstorage, temporary: A lot utilized for the temporary (30, 60 or 90 days) storage/loading of forestry products transported from some other location. (Ord. 12-16-15)

Yard: An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures except as otherwise provided herein.

Front: An open space on the same lot as a building between the front line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the front line and the rear line of the lot and extending the full width of the lot.

Rear: An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the rear line of the lot, and extending the full width of the lot.

Side: An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the side line of the lot, and extending from the front yard line to the rear yard line.

Zoning Administrator: The official charged with the enforcement of the zoning ordinance. The administrator may be any appointed or elected official who is by formal resolution designated to the position by the governing body. The administrator may serve with or without compensation as determined by the governing body.

Zoning district: A division of territory within Fluvanna County for the purposes of regulation of its use under the provisions of this Chapter.

Zoning permit: Any permit issued by the zoning administrator in accordance with this ordinance.
(Ord. 6-19-96; Ord. 10-18-00; Ord. 9-17-08; Ord. 10-15-08; Ord. 10-21-09; Ord. 6-16-10; Ord. 11-3-10; Ord. 8-1-12; Ord. 11-20-12; Ord. 12-16-15)

Article 23. Site Development Plans.

Sec. 22-23-1. Statement of intent.

The intent of this Article is to encourage harmonious development with the surrounding properties in accordance with the guidelines as provided in the comprehensive plan, the requirements of the Zoning Ordinance, and the requirements of other local and state ordinance and policies pertaining to the physical development of a site. This Article will serve to protect valuable resources within Fluvanna County, including unique natural features, historic sites, and significant view; to protect the environment, and to maintain the carrying capacity of the land, including, among other things, the protection of wetland, steep slopes, and other environmentally sensitive areas; to provide safe and convenient vehicular and pedestrian circulation; to provide adequate police and fire protection, water, sewerage, flood protection; and otherwise to protect the health, safety and welfare of the citizens of Fluvanna County.

Sec. 22-23-2. When required.

A site plan shall be required for any development, on any site, in all zoning districts in any case in which construction or a change in use of the existing site which increases the number of on-site parking spaces or anything that causes a visible change in the site. A "visible change" includes grading, removal of vegetation in preparation for future development of the site, mining, digging, and riverbank removal, addition to a building that changes the traffic circulation on the site, or any other change which the Director of Planning determines to be cause a significant impact to the public health, safety and welfare.

Sec. 22-23-2.1. Site plan exemptions.

The foregoing notwithstanding, no site plan shall be required for the following:

(1) Construction of, or addition to, a single family dwelling on an individual lot.

(2) Construction of, or addition to, a two-family dwelling on an individual lot.

(3) Accessory structures to single-family dwellings, (not meant for commercial use).

(4) Accessory buildings or structures on property used for the growing of agricultural crops, livestock, or forestry timber when such buildings or structures are necessary for such growing.

(5) Harvesting of plants or trees growing on the site.

(6) Clearing of a site for use for agricultural or pasture purposes.

Sec. 22-23-3. Issuance of permits by county.

No building permit, or other county permit required prior to the initiation of construction of any building or structure or development, shall be issued by any officer or employee of the county for any development which is subject to the provisions of this article until a site plan has been approved. Compliance with the terms contained on any site plan shall be deemed a condition of each and every permit issued by the county. Any permit issued prior to the approval of a site plan is automatically null and void.

Sec. 22-23-4. Waiver of minor requirements.

Any minor requirement of this article may be waived by the Director of Planning where such waiver is consistent with the purpose of this article. For any waiver, the applicant must establish that in his specific case either an undue hardship would result from the failure

to grant the requested waiver or that the requirement requested to be waived is unreasonable as applied to his specific case. The decision of the Director of Planning in this regard is appealable to the Planning Commission.

The Director of Planning shall not grant any requested waiver if the request is opposed in writing by any county or state official or employee who has regulatory authority relating to the approval of a site plan.

Sec. 22-23-5. Submittal of plans; director of planning as agent.

(A) The Director of Planning acting as an agent for the governing body will receive site plans for review.

(B) The plan shall be prepared at a scale of not less than 1”=20’ except for the index sheet, unless approved by the Director of Planning.

(C) All landscape plans shall be on sheets not exceeding twenty-four inches (24”) by thirty-six inches (36”).

(D) If the plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.

(E) Dimensions shall be in feet and decimals of feet to the closest one hundredth of a foot.

Sec. 22-23-6. Site plan content.

(1) The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person.

(2) Final site plans submitted for approval shall be certified by an architect, landscape architect, engineer, or land surveyor licensed or certified to practice by the Commonwealth of Virginia within the limits of his respective license or certification.

(3) All minor or major site plan shall include:

(A) The proposed title of the project and the name of the engineer, architect, landscape architect, surveyor, and developer, as applicable.

(B) A signature panel for the Director of Planning to indicate approval.

(C) A north arrow, scale graphic, and date.

(D) A vicinity map.

(E) The existing zoning and zoning district boundaries on the property in the development and on immediately surrounding properties; all special zoning requirements attached directly to the site as a result of the issuance of any Special Use Permit, variance, or rezoning; and the proposed changes in zoning, if any.

(F) The boundaries of the property in the development, including bearings and distances.

(G) All existing property lines, existing streets or rights-of-way opened or unopened; buildings, watercourses, and lakes; and other existing physical features in or adjoining the project. The physical features, such as watercourses, waterways and lakes on the adjoining properties need only be shown in approximate scale and proportion.

(H) The features of particular historic, cultural, scientific, or scenic significance as identified in the Comprehensive Plan, by the Director of Planning, or by any county department or state agency having site plan review responsibilities, or by the Virginia Department of Historic Resources the Virginia Department of Conservation and Recreation, or the Virginia Outdoors Foundation including, but not limited to, historic features, archaeological features, and graveyards.

(I) The building setback lines; the location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general uses for each building; the number, size, and type of dwelling units where applicable; and the preliminary plans and elevations for main and accessory buildings.

(J) The type, location, height, and materials of all existing and proposed fences and walls.

(K) The site coverage, showing percentage of site in buildings, parking, and open space.

(L) All existing and proposed topography and contour lines of the development site with a contour interval of two feet (2') or less for major site plans, five feet (5') or less for minor site plans, supplemented where necessary by spot elevations.

(M) The location and size of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures; all overhead utilities and supporting poles in or affecting the development area, including existing and proposed facilities; and easements for these facilities.

(N) The location, dimension, and character of construction of proposed streets, alleys, and driveways; and the location, type and dimensions of means of ingress and egress to the site. When proposed streets intersect with or adjoin existing streets, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of one hundred fifty feet (150') or the length of connection, whichever is the greater distance.

(O) The location of all existing and proposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces. See Article 26 Off-Street Parking and Loading Spaces of this Chapter. To the greatest extent possible, parking areas shall not be located between the adjacent right-of-way and the principal parking structure on the site unless topographic features or vegetation provide effective screening. Cul-de-sacs may not be construed or employed as a parking area.

(P) The location on the site of all living trees with a diameter of twelve inches (12") or greater at DBH (diameter at breast height) proposed to be removed. The site plan shall show heavily wooded areas to be preserved, trees to be retained, removed, and planted, and designated by symbols coincident with the areas of the trees. See Article 24 Landscaping and Tree Protection of this Chapter.

(Q) The location, height, and character of all outdoor lighting systems. See Article 25 Outdoor Light Control of this Chapter.

(R) The location, character, height, means of lighting, and orientation of proposed signs. See Article 15 Sign Regulations of this Chapter.

(S) All paving, including, without limitation, gravel or other pervious surfaces, which shall be of a design and quality to support the traffic which can reasonably be expected to be generated by the proposed use, as required by Article 26 Off-Street Parking and Loading Spaces of this Chapter.

(T) The limit of the one hundred (100) year floodplain, as defined in Section 22-17-8A. et seq. of this Chapter.

(U) The location of any wetlands in compliance with applicable federal, state, and local definition of wetlands.

(V) The location and dimensions of proposed recreation or open space, and required amenities and improvements, including details of disposition, in accordance with any open space or recreation plan adopted by the county.

(W) Any necessary notes required by the Director of Planning to explain the purpose of specific items on the plan.

(X) All suitable easements for future public water and sewer facilities necessary to serve the property.

(Y) All new electrical, telephone, cable television, fiber optic, and other utility lines on the site which shall be installed underground.

(4) In the B-1 and B-C zoning districts, a variation to the setback regulations may be granted by the Planning Commission for projects in a community planning area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan.

<u>Primary considerations for such requests include</u>:

- location of proposed development;
- size, scale, character, orientation of proposed development;
- adequacy of ROW for future transportation system (evaluate with input from VDOT);
- appropriateness of the proposed setback with surrounding development (proposed and/or existing);
- compatibility with the goals and objectives of the comprehensive plan (applicant should enumerate as many as possible); and

- compatibility with new urban/neo-traditional principles (applicant should enumerate as many as possible).

(5) Site planning shall consider the future development of adjacent parcels as recommended by the Fluvanna County Comprehensive Plan or other approved local plan and as may be indicated by any filed site plan, whether approved or under review. The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses.

(6) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

(A) A variation to the sidewalk regulations may be granted by the Planning Commission for projects where:

1) The Virginia Department of Transportation prohibits the construction of sidewalks;

2) The physical conditions on the lot or adjoining lots, including but not limited to, existing structure and parking areas, existing utility easements, environmental features, or the size and shape of the lot, make it impossible or unfeasible to provide the required sidewalks;

3) The application of the aforementioned requirements would not further the goals of the Comprehensive Plan or otherwise serve the greater public's health, safety, and welfare.

(B) The applicant shall file a written request with the Department of Planning and Community Development stating why application of a sidewalk variation is necessary and how the before mentioned circumstances may apply to the property.

(C) The Planning Commission shall act on the variation request in conjunction with the county's action on the site plan, subdivision plat or special use permit or, if no such action is required, within sixty (60) days of the date the application was submitted and determined to be complete. The Planning Commission may grant the variation if it determines that one or more applicable circumstances exist. In granting a variation, the Planning Commission may impose conditions deemed necessary to protect the public health, safety, or welfare.

(D) The denial of a variation, or the approval of a variation with conditions objectionable to the applicant, may be appealed to the Board of Supervisors. In considering a variation on appeal, the Board of Supervisors may grant or deny the variation based upon its determination of whether one or more applicable circumstances exist, amend any condition imposed by the Planning Commission, or impose any conditions deemed necessary to protect the public health, safety, or welfare.

(Ord. 5-4-11; Ord. 12-16-15)

Sec. 22-23-7. Additional improvements and standards for major site plans.

The following improvements and minimum standards, as applicable, shall be required and provided for in a major site plan:

(A) All streets and highway construction standards and geometric design standards shall be in accordance with those specified by Fluvanna County and the Virginia Department of Transportation.

(B) The pavement of vehicular travel lanes, driveways, or alleys shall be designed to permit vehicular travel on the site and to and from adjacent property and parking areas.

(C) All parking and other vehicular areas shall be so designed as to provide safe and convenient access by all vehicles which can reasonably be anticipated to use the site, including delivery and service vehicles as well as customer and employee vehicles.

(D) Safe and convenient pedestrian and bicycle access to, from, and within the site shall be provided.

(1) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. A variation to the sidewalk regulation may be granted per Section 22-23-6(6) of this Chapter.

(E) Widening or extension of the nearest abutting developed street shall be provided as required by Fluvanna County and the Virginia Department of Transportation. Where the proposed development does not abut a developed public street, a plan of access shall be submitted for approval in conjunction with the site plan.

(F) Traffic control devices, signs, and pavement markings shall be required. Electric traffic control devices shall be provided by the developer where the anticipated traffic

volume from the proposed development exceeds the thresholds established by the Virginia Department of Transportation.

(G) All drainage structures and facilities shall be adequate to provide efficient and complete drainage of surface waters from the site into adequate channels. They shall comply with the standards and applicable provisions of the Virginia Erosion and Sediment Control Handbook of the Virginia Department of Environmental Quality, the Drainage Manual of the Virginia Department of Transportation, and the regulations of the Virginia Department of Environmental Quality.

(H) All public water supply and sewerage systems shall comply with the provisions hereof, and obtain all applicable approvals and permits from Fluvanna County and the relevant Virginia Boards and Departments.

(I) Provisions shall be made for the adequate disposition of surface water in accordance with design criteria and construction standards of the Fluvanna County, indicating location, sizes, types and grades of ditches, catch basins, and pipes; and connection to existing drainage systems.

(J) Provisions and schedules shall be made for approval of adequate control of erosion and sedimentation, in accordance with the Fluvanna County Erosion and Sedimentation Control program, found in Chapter 6: Erosion and Sedimentation Control of this Code.
(Ord. 5-4-11; Ord. 12-16-15)

Sec. 22-23-8. Procedure.

Generally:

(1) Sufficient copies of the proposed site plan, as required by the Director of Planning, of the proposed site plan shall be submitted to the Director of Planning.

(2) An applicant may appeal any decision by the Planning Director within thirty (30) days in writing to the Planning Commission.

(3) All fees for site plans shall be as established by the board of supervisors and shall be paid in full before any site plan is accepted for review.

(4) An applicant must submit a sketch plan for review and comment prior to filing a preliminary site plan.

(5) No site plan shall be fully and finally approved unless it has sufficiently accurate dimensions and construction specifications to support the issuance of construction permits.

(A) Sketch Plan Required:

(1) Prior to incurring significant cost to prepare a Minor or Major Site Plan, the applicant shall prepare a sketch plan as set forth below.

(2) The applicant shall meet with the Director of Planning to review the sketch plan and receive comments from the county. If the sketch plan is a prelude to a Major Site Plan, the Planning Commission shall also review the proposed sketch plan. The applicant shall submit twenty (20) additional copies of the proposed sketch plan to the Director of Planning and it shall be placed on the Planning Commission agenda within sixty (60) days. The Planning Commission shall have forty-five (45) days to review the sketch plan and provide comments to the applicant.

(3) Site Plans for developments involving expansion of an existing building or use, in which: 1) building expansion is less than 500 square feet; 2) the area of disturbance is less than 2,500 square feet; 3) the development has no additional external lighting; and 4) no more than four (4) additional parking spaces are constructed then "Sketch Plans" can be reviewed for final approval.

(4) Associated with the review of this sketch plan, the Director of Planning may also require an on-site field inspection with the applicant or a representative at the applicant's choosing.

(5) The sketch plan will convey the general concept of the proposed site development and shall only include the following:

(a) A general analysis of the site, showing existing slopes, drainageways, tree stands, site features and amenities to be preserved, conservation areas, historic features, and the like.

(b) Approximate location and size of the buildings.

(c) General points of access.

(d) General street, roadway, and parking layouts.

(e) Any exterior lighting.

(6) Thereafter, no preliminary or final site development plan shall be approved by the Director of Planning unless the same shall substantially conform to the approved sketch plan, including all required modifications thereto which may be required as a result of comments by the planning commission.

(B) Minor Site Plans:

(1) Site Plans for developments involving expansion of an existing building or use, in which the building expansion is less than 2,500 square feet and greater than 500 square feet and the area of disturbance is less than 10,000 but greater than 2,500 square feet are considered "Minor Site Plans".

(2) The plan approval authority for Minor Site Plans is the Director of Planning.

(3) After the Director of Planning has deemed the application to be complete, he shall have thirty (30) days to circulate the plan to the relevant county departments and state agencies for written comments. At the end of the thirty (30) day period, the site plan may be approved or returned to the applicant with a written report on why the site plan cannot be approved. If the Director of Planning takes no action by the end of the thirty (30) day period, the site plan shall be deemed approved.

(4) Minor site plans shall contain all the elements in Section 22-23-6 of this Chapter.

(C) Major Site Plans:

(1) All site plans except those considered "Minor Site Plans" are considered "Major Site Plans."

(2) The Planning Director is the plan approving authority for Major Site Plans.

(3) After the Director of Planning has deemed the application to be complete, he shall have forty-five (45) days to circulate the plan to the relevant

County departments and State agencies for written comments. At the end of the forty-five (45) day period, the site plan may be approved or returned to the applicant with a written report on why the site plan cannot be approved. If the Director of Planning takes no action by the end of the forty-five (45) day period, the site plan shall be deemed approved.

(4) Major site plans shall contain all the elements in Section 22-23-6 and Section 22-23-7 of this Chapter.

Sec. 22-23-9. Site plan termination or extension.

(A) An approved final site plan, hereinafter referred to as “final site plan," shall be valid for five (5) years from the date of approval. A site plan shall be deemed final once it has been reviewed and approved if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.

(B) (1) Upon application prior to expiration of a final site plan, the Planning Director may grant a one (1) year extension for any approved site plan. Additional extensions may be approved for extended periods as the Planning Director may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

(2) If the Planning Director denies an extension requested as provided herein and the applicant contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the board of supervisors provided that such appeal is filed with the clerk of the board within sixty (60) days of the written denial by the Planning Director.

(C) For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five (5) years after approval, no change or amendment to any ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the applicant or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

(D) Application for minor modifications to final site plans made during the periods of validity of such plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

Sec. 22-23-10. Amendments to the site plan.

In some cases, it may become necessary for an approved site plan to be amended. For minor changes, that is, changes of a technical nature or having a limited effect on the site and adjoining sites, the Director of Planning may approve the amendments in accordance with the process established by this article. For major changes, that is, changes having a significant effect on the site and adjoining sites, or increasing or decreasing the amount of land covered by the site plan, the Director of Planning shall require a new site plan be drawn and submitted for review and approval in accordance with this article.

Sec. 22-23-11. Compliance with approved site plan.

(A) Inspections shall be made during the installation of off-site and on-site improvements by the Director of Planning, or other county or state staff, to insure compliance with the approved site plan.

(B) The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site plan, and shall make one (1) set of approved plans available at the site as all times that work is being done.

(C) No final Certificate of Occupancy shall be issued until all site work is completed in compliance with the approved site plan.

(D) Prior to any final approval, or issuance of any temporary certificate of occupancy, a bond with surety, or other guaranty, approved by the Planning Director and county attorney in accordance with sections 15.2-2241 through 15.2-2246 of the Code of Virginia, in an amount sufficient to cover the estimated costs of such improvements to be bonded, the owner or developer shall submit an estimate of such costs which shall be reviewed by the agent. The agreement and bond shall provide for and be conditioned upon completion of all work within a time specified by the Planning Director. The completion of all other improvements required by or pursuant to this Section shall be certified and/or bonded as provided hereinabove.

(E) Prior to occupying the site, the applicant shall provide to the agent plans of the site, in the same detail as the plans approved subject to this chapter showing the site as fully developed. The agent may require such supplementation, revision or amendment to such plans

as may be necessary to reflect the true conditions of the site. In the event that the site as fully developed shall not be substantially as shown on the approved site plan, the applicant shall submit a revised plan for review by the Planning Director. No certificate of occupancy shall be issued for any use, building or structure subject to the provisions of this article unless and until all improvements required by the approved plan shall have been satisfactorily completed; provided, however, that the Planning Director may issue a temporary certificate of occupancy for any such use as to which there remain incomplete one or more items from the said plan, conditioned upon the timely and satisfactory completion of such items, so long as such incomplete items do not adversely affect the public health or safety and have been bonded for completion in accordance with Section 22-23-11(D) of this Chapter.

Sec. 22-23-12. Certain approvals not required.

Nothing herein contained shall be deemed to require the approval of any plan, or any feature thereof, which shall be determined, for specific, identifiable reasons, to be a departure from sound engineering practice or to constitute a danger to the public health, safety or general welfare.

Article 24. Landscaping and Tree Protection.

Sec. 22-24-1. Landscape plan -- General provisions for landscaping.

The purpose of this section is to provide guidelines for the landscaping and screening of development sites subject to site plan approval. These requirements are intended to ensure that site development is harmonious with the surrounding properties, to promote the public health, safety and welfare, in accordance with the guidelines in the Comprehensive Plan; to help to conserve energy by providing shade and wind breaks; to encourage recharge of ground water by providing pervious area; to improve and preserve the air quality and minimize noise, dust and glare; and to preserve the rural character of the county. (Ord. 8-1-12)

Sec. 22-24-2. Landscape plan specifications.

(A) All landscape plans shall be on sheets not exceeding twenty-four inches (24”) by thirty-six inches (36”).

(B) If the plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.

(C) A certified Landscape Architect, arborist, horticulturist, land surveyor, or other person deemed qualified by the Zoning Administrator shall prepare the plan.

(D) The plan shall be prepared at a scale of not less than 1”=40’ for areas along streets and roads, and not less than 1”=20’ for areas around buildings, parking lots, and landscape areas.

(Ord. 8-1-12)

Sec. 22-24-3. Landscape plan contents.

The Landscape plan shall include the following elements:

(A) The existing and proposed contours at intervals of five feet (5”) or less;

(B) All property boundary lines;

(C) The limits of grading and clearing;

(D) The tree protection zone(s) as applicable and any and all information required for tree protection as indicated in Sections 22-24-8.1, -8.2, and -8.3 of this Article;

(E) All proposed improvements;

(F) The existing and proposed underground and overhead utilities, including heights and/or depths;

(G) All rights of way and easements;

(H) An adequate, clearly identified, exterior water source; and

(I) All planting details, including:

(1) The botanical and common name, size, spacing, and location of all trees, shrubs, and ground cover, and the location and extent of planting beds in which they are to be planted, if any;

(2) All plants shall be labeled on the plan by direct call-out method or by symbols keyed to a plant list;

(3) A planting symbol shall be provided to illustrate the natural canopy/cover of trees and the extent of growth of shrubs at maturity;

(4) A plant list or matrix shall be provided showing the botanical name, common name, quantity, size, spacing, handling method, and general instruction, if any, specific to each plant;

(5) General details shall be provided illustrating the method of installation of plants, seeding, and sodding, including but not necessarily limited to size of plant pit, method of placement, backfill material, method of support, preparation of beds, mulch, etc;

(6) Special details shall be provided illustrating special conditions such as supplemental plant pit drainage, pruning for special effects, or other conditions requiring illustrated instructions;

(7) General notes shall be provided specifying the care and maintenance of plants for a period of three (3) years following planting and the replacement of any dead, dying, or diseased vegetation required to be installed by this chapter for the life of the project.

(Ord. 8-1-12; Ord. 12-16-15)

Sec. 22-24-4. Minimum standards.

(A) The following shall be the minimum size of plant materials at installation:

(1)	Large shade trees	1.5” caliper
(2)	Medium shade trees	1.25” caliper
(3)	Ornamental trees	1.25” caliper
(4)	Evergreen trees	5’ in height
(5)	Shrubs	18” in height
(6)	Ground cover	1 year plants

(B) All required landscaping shall be planted according to the following standards:

(1) All trees to be planted shall meet the American Standard for nursery stock published by the American Nursery and Landscape Association.

(2) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association and the Virginia Society of Landscape Designers, or the Road and Bridge Specifications of the Virginia Department of Transportation.

(3) All required landscaping shall be planted between September 15 and June 30, provided that the ground is not frozen.

(C) Wheel stops, curbing, or other barriers shall be provided to prevent damage to landscaping by vehicles.

(D) Where necessary, trees shall be welled or otherwise protected against change in grade. Such protection measures shall be sited to minimize disturbance within the drip line of trees designated for protection on the landscape plan.

(E) All pervious areas of the site shall be permanently protected from soil erosion with grass, ground cover, or mulch material.
(Ord. 8-1-12; Ord. 12-16-15)

Sec. 22-24-5. Requirements.

(A) It is the specific intent of these requirements to promote landscape design and installation to mitigate the effects of new development on surrounding areas and specifically not to use plantings as a means of drawing attention to new development. The landscape plan should help protect and preserve Fluvanna County's rural character.

(B) The Landscape Plan shall utilize native and assimilated non-native species listed within the Fluvanna County Plant List. Applicants may add plants to this list with the prior approval of the Zoning Administrator, provided that the proposed species have a rated hardiness and growth habit appropriate for the intended location. A mixture of plant species should be used on each site.

(C) Street trees shall be required along existing or proposed public streets within or adjacent to any site that is subject to site plan approval and all major subdivisions with an average lot size of one (1) acre or less. The placement of street trees shall be in accordance with Virginia Department of Transportation (VDOT) standards and shall not be located within

any sight triangle. The required plantings shall be located either within the right-of-way itself or within a ten-foot (10') strip continuous to such right-of-way. Existing, healthy trees with a caliper of eight inches (8") or greater located within ten feet (10') of the right-of-way may be used to satisfy the planting requirement, provided the trees are protected in accordance with the standards contained in this Chapter. Appropriate provisions shall be made for the permanent maintenance and preservation of the required street trees, to the reasonable satisfaction of the county attorney. Such provisions may include a landscape preservation easement dedicated to the property owners' association or other entity approved by the county attorney. The street trees shall be planted at the following rate:

(1) One (1) large shade tree shall be required for every fifty feet (50') of road frontage; or

(2) One (1) medium shade tree shall be required for every forty feet (40') of road frontage.

(D) Minimum tree canopy coverage shall be provided for all new commercial, industrial, and multi-family residential development in accordance with the following requirements:

(1) Tree canopy coverage shall include all areas of coverage by plant material exceeding ten feet (10') in height, and shall be measured ten (10) years maturity after planting.

(2) Tree canopy coverage shall be calculated for new plantings using ten (10) year tree canopy coverage standards published by the Virginia Nursery and Landscape Association or other set of standards approved by the Zoning Administrator. When a coverage interval is cited in such standards, the smallest coverage figure for each interval shall be used.

(3) All landscape plans shall include the preservation of existing trees, the planting and replacement of trees, or any combination thereof, to the extent that, at maturity of ten (10) years, a minimum tree canopy shall be provided as follows:

a) Ten percent (10%) tree canopy for a site developed with commercial, office, institutional, or industrial uses;

b) Fifteen percent (15%) tree canopy for a multi-family residential site developed at a gross density of more than ten (10) but less than twenty (20) dwelling units per acre; and

c) Twenty percent (20%) tree canopy for a multi-family residential development developed at a gross density of ten (10) or fewer dwelling units per acre.

(4) A bonus credit toward tree canopy requirements may be given for the preservation of existing wooded areas, clusters of trees, or mature trees (healthy trees with twelve inches (12”) or greater diameter at breast height) as follows:

a) The credit provided for the preservation of existing trees, wooded areas, or clusters of trees shall be 1.50 multiplied by the area defined by the existing drip line of the tree, wooded area, or cluster of trees.

b) The credit provided per mature tree shall be 2.0 multiplied by the area defined by the boundaries of the existing drip line of the tree.

c) A certified landscape architect or arborist shall provide written verification that the trees for which credit will be awarded are in healthy condition; will likely survive for at least twenty (20) years following landscape plan approval; will not be severely impacted by construction activities on site; will not interfere with the growth of other viable landscaping; and will not compromise safety. Credit towards tree canopy requirements shall not be given for any tree deemed to be in poor to fair condition by the Zoning Administrator, nor for any plant designated as invasive on the list maintained by the Zoning Administrator.

d) In the event that one or more trees to be awarded bonus credit under this section is destroyed, significantly damaged during clearing or construction activities, or is willfully destroyed or removed, the person responsible for such destruction, injury, or removal shall replace each tree destroyed with two (2) large shade trees planted on-site.

(5) For the purpose of calculating the total area of a site to determine tree canopy coverage requirements, the following areas shall be excluded:

a) Properties reserved or dedicated for future street construction or other public improvements.

b) Ponds and un-wooded wetlands.

c) Properties reserved or dedicated for school sites, playing fields and non-wooded recreation areas, and other facilities and areas of a similar nature.

d) Portions of a site containing existing structures that are not the subject of a pending application.

(E) All sites subject to site plan approval and all major subdivisions shall reserve a riparian protection area in accordance with the following requirements:

(1) The riparian protection area shall be at least fifty feet (50') wide along both sides of all intermittent streams, at least seventy-five feet (75') wide along both sides of all perennial streams, and at least one hundred feet (100') wide along both sides of the Hardware River, Rivanna River, and James River.

(2) Indigenous vegetation, including existing ground cover, shall be preserved to the maximum extent practicable, consistent with the use or development proposed. Dead, diseased, or dying vegetation may be pruned or removed as necessary, pursuant to sound horticultural practices. No logging or silvicultural activities may take place within the riparian protection area.

(3) No portion of any on-site sewerage system, drain field, reserve drain field, or building shall be placed within the riparian protection area. This statement shall be on all plats and site plans of affected lots.

(4) If otherwise authorized by the applicable regulations of this chapter, the following types of development shall be permitted within the riparian protection area, provided that the requirements of this section are met:

a) A building or structure which existed on the date of adoption of this article may continue at such location. However, nothing in this section authorizes the replacement, expansion, or enlargement of such building or structure.

b) On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:

1. To the extent practical, as determined by the Zoning Administrator, the location of such facilities shall be outside of the riparian protection area.

2. No more land shall be disturbed as necessary to provide for the construction and maintenance of the facility, as determined by the Zoning Administrator.

3. The facilities are designed to minimize impacts to the functional value of the riparian protection area and to protect water quality; and

4. Facilities located within a floodplain adhere to the floodplain regulations of the County Code.

c) Water-dependent facilities; water wells; passive recreation areas, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities, provided that all applicable federal, state and local permits are obtained. All pedestrian trails and bicycle paths shall be constructed using permeable paving materials.

d) Stream crossings of perennial and intermittent streams for roads, streets, or driveways, provided that the stream buffer disturbance shall be the minimum necessary for the lot(s) to be used and developed as permitted within the underlying zoning district. Stream crossings shall not disturb more than thirty (30) linear feet of stream for driveways and sixty (60) linear feet for roads or streets, provided that the Zoning Administrator may allow additional length of stream disturbance where fill slopes or special conditions necessitate additional length.

(F) Species identified on the Invasive Alien Plant Species of Virginia list published by the Virginia Department of Conservation and Recreation may not be used in any circumstance.

(G) In areas in view of public roads and rights-of-way, landscape plans should specify plants and their spacing so they may grow in their natural habitat, achieving mature size with minor pruning and shaping.

(1) Where landscaping is required, the property owner or developer shall provide performance guarantees as follows: No certificate of occupancy shall be issued until the landscaping is completed in accordance with the approved landscape plan. When the occupancy of a structure is desired prior to the completion of the required landscaping, a certificate of occupancy may be issued only if the owner or developer provides a performance bond or other form of security satisfactory to the Zoning Administrator in an amount equal to the costs of completing the required landscaping. All required landscaping shall be installed and approved by the end of the first planting season following issuance of a certificate of occupancy, or the security described above may be forfeited to Fluvanna County.

(2) A maintenance bond for the landscaping required by this Chapter shall be posted by the developer in favor of Fluvanna County. If the landscaping is installed prior to the issuance of a certificate of occupancy, then the maintenance bond shall be posted prior to the issuance of the certificate of occupancy. If the landscaping is bonded for installation, rather than installed prior to the issuance of a certificate of occupancy, then the maintenance bond shall be posted when the materials are planted and before the performance bond is released. The maintenance bond shall be in the amount of one-third (1/3) the value of the landscaping and shall be held for a period of one (1) year following the planting date. At the end of the one (1) year time period, the bond shall be released if all plantings are in healthy condition as determined by the Zoning Administrator. If the plantings installed in accordance with an approved landscape plan are not properly maintained by the owner, the security described above may be forfeited to Fluvanna County. In the alternative, the Zoning Administrator may permit the owner to extend the period of such bond for such reasonable time and upon such reasonable terms as he may determine to be best to protect the public interest.

(H) The landowner shall be responsible for the general maintenance and the timely repair and replacement of all landscaping required by this Chapter. All landscaping shall be maintained as follows:

(1) Plantings shall be kept mulched to prevent weed growth and to retain soil moisture;

(2) Plant material shall be pruned to maintain healthy and vigorous growth with all pruning performed in accordance with generally accepted maintenance standard practices;

(3) All turf areas shall be kept mown, except for areas designated as a natural meadow on the landscape plan;

(4) All plant and landscape material and landscaped areas shall be kept free of refuse and debris; and

(5) The landowner shall maintain any plant material required by this Chapter and any plant material that dies shall be replaced in kind, or with a suitable substitute as approved by the Zoning Administrator. Preserved existing trees, that subsequently die, shall be replaced by new trees of a caliper and/or height as would be required by this Chapter.

(I) Any minor requirements above may be modified by the Zoning Administrator on a site-specific basis, where the Zoning Administrator finds that, as a result of conditions peculiar to the site, the objectives of the ordinance can be better achieved by other means. The Zoning Administrator may also approve minor spacing variations, which the Zoning Administrator determines to be immaterial to the objectives of this Chapter. The Zoning Administrator may allow for a modification of the riparian protection area requirements by providing alternative measures for riparian protection, by means of substitution of materials, design, or technique, which the Zoning Administrator determines to provide the same or greater degree of riparian protection as compared to such area requirements and is determined by the Zoning Administrator to be reasonably necessary to permit reasonable uses of the property which are otherwise permitted by this Chapter. The decision of the Zoning Administrator in this regard shall be appealable to the Board of Zoning Appeals. A request for a modification shall be submitted and evaluated as follows:

(1) At a minimum, a request for any modification shall include the following information:

a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;

b) A description of the shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;

c) A detailed site plan that shows the locations of all existing and proposed structures and impervious cover and the limits of all existing and proposed land disturbance. If applicable, the exact area of the riparian protection area to be affected shall be accurately and clearly indicated;

d) Documentation of unusual hardship should the requirements be maintained;

e) At least one (1) alternative plan, which meets the requirements of this section, or an explanation of why such a site plan is not feasible;

f) A stormwater management plan, if applicable;

g) A calculation of the total area of intrusion into the riparian protection area, if applicable; and

h) Proposed alternative measures for an intrusion into the riparian protection area, if applicable, together with calculations, graphic depictions and textual materials sufficient to support the conclusion that such alternative measures are sufficient to support the determinations set forth hereinabove.

(2) The following factors will be considered by the Zoning Administrator in determining whether to allow a modification:

a) The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;

b) The locations of all streams and waterways on the property, including along property boundaries;

c) The long-term and construction water-quality impacts of the proposed modification;

d) Whether issuance of the modification is at least as protective of natural resources and the environment, including local air and water quality; and

e) Whether issuance of the modification will negatively impact surrounding properties or adjoining roadways.

(Ord. 8-1-12)

Sec. 22-24-6. Parking lot landscaping.

(A) All development subject to site plan approval shall include the following required landscaping for parking lots consisting of five (5) spaces or more.

(B) Minimum planting areas are to be provided as follows:

(1) One planting island containing not less than 200 square feet of planting area for every twenty (20) parking spaces in a row and at both ends of a parking bay, with a minimum width of ten feet (10') in order to protect the landscaping and allow for proper growth.

(2) A planting strip at least nine feet (9') in width between each adjacent area of parking of four (4) bays.

(3) A planting strip at least nine feet (9') in width shall be provided between access roadways and adjacent properties' parking areas and adjacent property of the same use.

(4) A planting area at least twenty-five feet (25') in width shall be provided between parking and adjacent properties of a different use and public streets and rights-of-way. The area shall be measured from the closest parking space to the adjacent property or right-of-way line.

(C) Planting islands shall be planted as follows:

(1) One (1) large shade tree and four (4) shrubs for every 200 square feet.

(2) Large shade trees shall be arranged so that the canopy at maturity will cover thirty-five percent (35%) of the parking area placed mainly around the perimeter of the parking area and at the end of parking bays.

(3) Medium shade trees may be substituted for large shade trees at a ratio of two (2) to one (1), if appropriately spaced and meeting all other canopy criteria. Medium shade trees shall not exceed forty percent (40%) of the total number of shade trees.

(D) Internal planting strips shall be planted as follows:

(1) One (1) large shade tree and six (6) shrubs every forty (40) linear feet.

(2) Large shade trees shall be arranged so that the canopy at maturity will cover thirty-five percent (35%) of the parking area placed mainly around the perimeter of the parking area and at the end of parking bays.

(3) Medium shade trees may be substituted for large shade trees at a ratio of two (2) to one (1), if appropriately spaced and meeting all other canopy criteria. Medium shade trees shall not exceed forty percent (40%) of the total number of shade trees.

(E) Parking lots consisting of five (5) spaces or more shall be screened from view of public roads, rights-of-way, and adjacent properties. One (1) of the following landscaping treatment options shall be utilized to meet the minimum screening requirements for parking lots:

(1) Landscape Strip Option: One (1) tree and ten (10) shrubs shall be planted for each forty (40) linear feet, excluding driveway openings, within a planting strip that is ten feet (10’) in width; or

(2) Berm Option: One (1) tree and five (5) shrubs shall be planted for each forty (40) linear feet, excluding driveway openings. The berm shall be at least thirty inches (30”) higher than the finished grade of the parking lot and shall not have a slope steeper than 2:1. The berm shall be stabilized with groundcover or other vegetation; or

(3) Woodlands Preservation Option: Existing woody vegetation shall be preserved as a buffer strip with a minimum width of thirty-five feet (35’). Additional tree or shrub plantings may be required by the Zoning

Administrator. The woodlands preservation area shall be placed in a landscape easement, and the landscape plan shall demonstrate techniques to be used for removing underbrush, pruning, and protecting existing trees from any damage during site development; or

(4) Structural Option: A wall constructed of brick, stone, or architectural block, no shorter than three feet (3') and no taller than four feet (4'), shall be constructed along the entire width of the parking lot. One (1) tree and three (3) shrubs shall be planted for each forty (40) linear feet, excluding driveway openings.

(F) The placement of bioretention areas within required planting areas is encouraged, provided that the bioretention techniques utilized are approved as part of an erosion and sediment control plan, stormwater management plan, or similar document. Examples of bioretention techniques include, but are not limited to, rain gardens, swales, infiltration trenches, and tree box filters.

(G) When retaining existing trees in parking areas, enough ground around the tree should be left to allow for its survival or grass pavers should be used to allow air and moisture to reach the tree roots.
(Ord. 8-1-12)

Sec. 22-24-7. Screening.

(A) Screening shall be required in the following instances:

(1) Commercial and industrial uses shall be screened from view adjacent properties in residential and agricultural zoning districts, except for commercial and industrial uses allowed by right in said districts.

(2) Parking lots consisting of five (5) spaces or more shall be screened from view of public roads, rights-of-way, and adjacent properties.

(3) Objectionable features, including but not limited to the following, shall be screened from the view of public roads, rights-of-way, and adjacent properties:

i. Loading areas
ii. Refuse areas
iii. Storage yards

iv. Dry Detention ponds
v. Maintenance areas

(4) If the required screening is consistent with an approved Master Plan subject to the requirements of the R-3 Residential zoning district.

(5) The Zoning Administrator may require the screening of any use, or portion thereof, upon determination that the use would otherwise have a direct negative visual impact on a property designated as historic by its inclusion within the Historic Preservation chapter of the Comprehensive Plan.

(B) When required, screening shall consist of new plantings, existing vegetation, an opaque masonry wall or wooden fence, or combination thereof, to the reasonable satisfaction of the Zoning Administrator. Unless otherwise specified within this Chapter, one of the following landscaping treatment options shall be utilized to meet the minimum screening requirements:

(1) Evergreen Option: Two (2) rows of evergreen trees shall be planted ten feet (10') on center and staggered within a planting strip that is twenty-five feet (25') wide; or

(2) Berm Option: Two (2) rows of evergreen shrubs shall be planted ten feet (10') on center and staggered. The berm shall be at least thirty inches (30") higher than the finished grade of the surrounding area and shall not have a slope steeper than 2:1. The berm shall be stabilized with groundcover or other vegetation; or

(3) Mixed Vegetation Option: One (1) large shade tree, one (1) medium shade tree, one (1) evergreen tree, and three (3) evergreen shrubs for each twenty (20) linear feet, within a planting strip that is twenty-five feet (25') wide; or

(4) Woodlands Preservation Option: Existing woody vegetation shall be preserved as a buffer strip with a minimum width of seventy-five feet (75'). Additional tree or shrub plantings may be required by the Zoning Administrator. The woodlands preservation area shall be placed in a landscape easement, and the landscape plan shall demonstrate techniques to be used for removing underbrush, pruning, and protecting existing trees from any damage during site development; or

(5) Structural Option: A wall or fence, no shorter than six feet (6') in height, shall be provided and one (1) evergreen tree or shrub shall be planted every ten feet (10') along the side of any such wall or fence facing a public street or use for which the screening shall benefit.

(C) Within commercial, industrial, and multi-family residential developments, dumpsters and other refuse areas visible from public roads, rights-of-way, adjacent properties, and parking areas shall be completely screened from view by a wall or fence constructed using architectural block, brick, stone, vinyl, wood or a similar material that is compatible with the architecture of the principal structure. The use of durable, low-maintenance materials is encouraged.

(D) Parking lots of five (5) spaces or more shall be screened in accordance with Section 22-24-6 of this Article.
(Ord. 8-1-12)

Sec. 22-24-8.1. Purpose of tree protection plans.

The purpose of this section is to promote the general health, safety and welfare through the protection and preservation of existing tree stands, individual specimen trees, and understory plants during the land disturbance/site development process. Preservation of existing tree stands, individual specimen trees, and understory plants shall be a primary consideration in the planning for, and implementation of, land development activities. For tree protection, barriers are required to prevent physical damage to trees or understory plants, and to prevent soil disturbance and compaction within tree protection areas. The more intense the development of the site, the greater the need for the protection and preservation of existing trees and understory. (Ord. 8-1-12)

Sec. 22-24-8.2. Activities requiring tree protection plans.

Compliance with the tree protection program of this section is required on all site development plans involving land clearance of more than one-half of one acre (21,780 square feet of cleared land) in size, and all activities requiring a land disturbing permit except for the construction of a single or two family dwelling on an individual lot.

All plans prepared for compliance with this chapter shall clearly delineate areas of tree protection and provide construction details of tree protection barriers. Measures for tree protection shall be outlined in the general notes of the plan, including construction, inspection, and maintenance of barriers. The general notes shall also outline prohibited activities within the tree protection zones. The tree protection zone shall, to the extent possible, conform to the drip line of the trees being protected.
(Ord. 8-1-12)

Sec. 22-24-8.3. Tree protection plan contents.

(A) All tree protection plans shall indicate tree protection zone(s), in accordance with the following guideline:

(1) Existing stands of trees or individual specimen trees whose removal is not necessary for the development of the site or the construction of any facility.

(2) Preservation of existing trees to comply with the landscape plan requirements.

(B) All areas of tree protection shall be bounded by a tree protection barrier at the perimeter of the tree protection zone. Barriers shall completely surround the tree protection area, except where the area extends more than one hundred (100) yards beyond the construction zone or routes of access to the construction zone. The tree protection areas, beyond the one hundred (100) yards, shall be flagged every one hundred feet (100') with continuous ribbon with "Do Not Enter" signs stating prohibited activity. Barriers and flagging shall be installed prior to any land disturbing activity. Barriers shall be a minimum of five feet (5') in height, stationary, and constructed of rigid or semi-rigid materials that must be dismantled to be moved.

Barriers shall be of a color or flagged to be clearly visible by all people in the vicinity, particularly equipment and vehicle operators. Barriers shall be inspected and repaired on a routine basis and shall be completely removed prior to occupancy of the development. The purpose of the barrier shall be to prevent damage to trees or under story plants and to prevent soil disturbance and compaction within the zone.

(C) The following activities are prohibited within tree protection zones:

(1) Operation of any vehicle or machinery, except as may be necessary for the installation of utility lines.

(2) Parking of vehicles or equipment.

(3) Storage of any materials or equipment.

(4) Discharge of any substance that may be injurious to trees or understory plants.

(D) Wherever feasible, utilities shall be designed and routed to avoid tree protection zones. If it is necessary to route utilities through tree protection zones, the following shall apply:

(1) Route utility trenches outside the drip line of trees or as far as possible from tree trunks.

(2) In areas of multiple trees, where trenches must go between trees, preference should be given to stay away from larger specimen trees.

(3) Equipment that is the lightest weight and makes the least possible impact shall be used to dig trenches and install utilities.

(4) Rubber-tired, rather than track equipment, shall be used whenever possible.

(5) Excavation materials are not to be placed against tree trunks and shall be placed as far away from trunks as possible.

(6) Where excavation materials are to be placed, indicator ribbons shall be placed on undisturbed areas prior to excavation, to facilitate restoring the area to the original grade.

(7) Areas where excavated materials have been placed shall be restored to the original grade with the least amount of disturbance possible.

(E) Any damage done to trees within tree protection zones shall be immediately repaired.

(F) Any clearing within tree protection zones shall be done by hand.

(G) Where grade differences occur between the tree protection area and the finished grade of the adjacent areas, retaining walls and dry wells shall be used to prevent the need for grading in tree protection zones.
(Ord. 8-1-12)

Article 25. Outdoor Light Control.[29]

Sec. 22-25-1. Statement of intent.

The purpose of this Section is to protect the public health, safety and welfare by regulating the placement, orientation, distribution, and fixture type and size of outdoor lighting. The intent of this section is to encourage lighting that provides safety, utility and security, as well as preventing glare on public roadways, and to prevent light trespass or spillover to adjoining properties.

[29] Renamed by Editor from "Sec. 22-25. Outdoor Light Control Article".

Sec. 22-25-2. Conformance with applicable codes and ordinances.

All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this article, and other applicable provisions of the Zoning Ordinance. Where there is conflict between the provisions of this article and applicable provisions of the Zoning Ordinance, the most restrictive shall govern.

Sec. 22-25-3. Approved materials and methods of installation.

The provisions of this article are not intended to prevent the use of any equipment, material or method of installation not specifically prescribed by this article provided the alternative has been approved by the Zoning Administrator. The Zoning Administrator may approve any such alternative provided that the proposed design provides the approximate equivalence to the specific requirements of this article.

Sec. 22-25-4. General terms.

(A) *Outdoor Light Fixtures* shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps or other devices, permanent or portable, used for illumination, direction or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights for:

(1) Buildings and structures, including canopies and overhangs;

(2) Parking lot lighting;

(3) Landscape lighting;

(4) Signs; and

(5) Display and service areas.

(B) *Installed* shall mean the initial installation of outdoor light fixtures defined herein, following the effective date of this article, but shall not apply to those outdoor light fixtures installed prior to such date.

(C) *Shielded, fully* shall mean fixtures that are shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. This means that a fully shielded fixture is one used in such a way that it allows no

direct or internally reflected light to shine above the light fixture or beyond the property line. The terms 'source shield' and 'full cutoffs' shall mean fully shielded.

(D) *Footcandle* shall mean a quantitative unit of measure referring to the measurement of illumination incident at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.

(E) *Full Cutoff Angle* shall mean the angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted. Refer to example graphics.

(F) *Initial Lumens* shall mean the lumens emitted from a lamp, as specified by the manufacturer of the lamp.

(G) *Lamp* shall mean the component of a luminaire that produces and directs light. A lamp is also commonly referred to as a bulb.

(H) *Lumen* shall mean a standard unit of measurement referring to the amount of light energy emitted by a light source, without regard to the effectiveness of its distribution.

(I) *Luminaire* shall mean a complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.

(J) *Outdoor Luminaire* shall mean a luminaire that is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign.

(K) *Photometric Plan* shall mean a point-by-point plan depicting the intensity and location of lighting on the property and spillover on to adjacent properties or rights of way. (Ord. 12-16-15)

Sec. 22-25-5. Shielding.

All outdoor light fixtures except those exempted, or as otherwise specified in Article 15: Sign Regulations of this Chapter, shall be fully shielded. A fully shielded fixture must be a full cutoff luminaire or decorative luminaire with full cutoff optics, and is defined as an outdoor lighting that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures. The light source visibility shall be fully shielded from the adjoining property. (Ord. 6-16-10)

Sec. 22-25-6. General requirements for all zoning districts.

(A) Public or Private Recreational Facilities: Lighting for the parking areas for these facilities shall meet the requirements identified in the following Applications section.

(B) Outdoor Illumination of Building, Landscaping and Signs. The unshielded outdoor illumination of any building or landscaping is prohibited. Lighting fixtures used to illuminate an outdoor sign shall either be mounted on the ground sign or mounted on the top of the sign, and shall comply with shielding requirements.

(C) All outdoor lighting fixtures shall be turned off after the close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

(D) Gasoline Station/Convenience Store Aprons and Canopies.

(1) The lighting fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling and light is restrained to no more than eighty-five (85) degrees from vertical.

(2) As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy and the canopy designed is such a way as to prevent light from being directly reflected beyond the property line.

(3) Lights shall not be mounted on the top or sides (fascia) of the canopy, and the sides of the canopy shall not be illuminated.

(4) The lighting for new facilities (pump islands and under canopies) shall have a minimum of 1.0 footcandle at grade, and the average horizontal illumination cannot exceed 10 footcandles at grade level, subject to a uniformity ratio (ratio of average to minimum illuminance) no greater than 4:1. The standards herein are based on the Illuminating Engineering Society of North America (IESNA) RP-33, Lighting for Exterior Environments.

(5) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.

(6) The lighting of roofs or portions thereof is prohibited.

(E) All Parking Lots, Loading and Display Areas. This lighting requirement applies to multi-family, educational, institutional, public, commercial business and retail, wholesale, and limited and general industrial use categories identified within the Zoning Ordinance.

(1) Lighting for all parking, display and loading areas shall not exceed an average horizontal illumination level of 2.5 footcandles. All lighting fixtures serving these areas shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA);

(2) Maximum Mounting Height*
Residential: 15 feet
Non-Residential: 20 feet

* Height is measured from the ground surface to the bottom of the lighting fixture.

(F) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.

(G) The lighting of roofs or portions thereof is prohibited.
(Ord. 12-16-15)

Sec. 22-25-7. Exemptions.

(A) Nonconforming Fixtures. Outdoor light fixtures installed prior to the effective date of this article are exempt from the provisions of this article, provided, however, that no change in use, replacement, and structural alteration of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this Article.

(B) Lighting that is not subject to this Chapter by state or federal law.

(C) Roadway and airport lighting and security lighting controlled and activated by motion sensor devices for a duration of fifteen (15) minutes or less.

(D) Lighting of any flag as required by law

(E) Temporary circus, fair, carnival, or civic uses.

(F) Special Conditions. The Zoning Administrator may grant an exemption to the requirements only upon a written finding that there are conditions warranting the exemption and that there are no conforming fixtures that would suffice.

(G) Construction and Emergency Lighting. Lighting necessary for construction or emergencies is exempt from the provisions of this article provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(H) Lighting associated with agricultural uses and structures, such as a barn or paddock area.

(I) Single-family and duplex residential buildings.

Sec. 22-25-8. Applications.

(A) Any person submitting a site plan or applying for a building, electrical or sign permit to install outdoor lighting fixtures shall, as a part of said application, submit evidence that the proposed work will comply with this article.

(B) The lighting plan application shall include at least the following:

(1) A site plan drawn to scale showing building(s), landscaping, parking areas and proposed exterior lighting fixtures;

(2) Location of all post, canopy, supports and light fixtures, including the height of each fixture, for any building, structure, parking, display and loading areas;

(3) Specifications of the illuminating devices, lamps, supports, and other devices, including designation as Illuminating Engineering Society of North America (IESNA) “cut-off” fixtures. This description may include but is not limited to manufacturers catalog cuts, and drawings including sections where required;

(4) Locations of all pole-mounted and building-mounted fixtures and a numerical twenty-five foot (25') by twenty-five foot (25') grid of lighting levels, in footcandles, that the fixtures will produce on the ground (photometric report). The photometric report will indicate the minimum and maximum footcandle levels within the lighted area of the site and spillover on adjacent properties and right of ways. The minimum (lowest number) is usually at the outer edges of the illuminated area or between two fixtures. The average light level is determined by adding the footcandle value of all the points in the grid and dividing by the total number of points.

(5) The above required plans and descriptions shall be sufficiently complete to enable the Zoning Administrator to readily determine whether compliance with the requirements of this article will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

Sec. 22-25-9. Issuance of permit for lighting on private property.

Prior to issuance of a building, electrical, or sign permit, the Zoning Administrator shall determine that the submitted plans and details for said permit are in conformance with this article. The stamping of the plans and the signature of the Zoning Administrator or his designated representative and the date of the signature shall indicate that the plans are in conformance.

Sec. 22-25-10. Amendment to permit for lighting on private property.

Should the applicant desire to substitute outdoor light fixtures or lamps to be installed on private property after a permit has been issued, the applicant shall submit all changes to the Zoning Administrator for approval, with adequate information to assure compliance with this article.

Sec. 22-25-11. Appeals.

Except for street lighting within the right-of-way and for temporary exemptions, any applicant's appeal of the Zoning Administrator's decision shall be made to the Board of Zoning Appeals, and the procedures of the Zoning Ordinance shall apply.

Sec. 22-25-12. Request for Temporary Exemptions.

(A) Request. Any person may submit a written request on a form prepared by the Zoning Administrator for a temporary exemption to the requirements of this article. The Request for Temporary Exemption shall contain the following information:

(1) Specific exemptions requested.

(2) Type and use of exterior light involved.

(3) Duration of time for requested exemption.

(4) Type of lamp and total wattage of lamp or lamps.

(5) Proposed location of exterior light.

(6) Previous temporary exemptions, if any.

(7) Physical size of exterior light and type of shielding provided.

The Zoning Administrator may request any additional information that would enable a reasonable evaluation of the Request for Temporary Exemption.

The fee for a temporary exemption shall be established as part of a fee schedule adopted by the board ofsSupervisors.

Sec. 22-25-12.1. Appeal.

The Zoning Administrator, within thirty (30) days from the date of the properly completed Request for Temporary Exemption, shall approve or reject in writing the Request. If rejected, the individual making the Request shall have the right of appeal to the Planning Commission.

Article 26. Off-Street Parking and Loading Spaces.

Sec. 22-26-1. Statement of intent.

The intent of this Article is to provide vehicle parking space for a developed site that is adequate to serve the demand generated by the proposed use, while avoiding excessive

impervious area. This Article will serve to protect valuable natural, historic, and scenic resources within Fluvanna County; to provide safe and convenient internal and external movement of vehicles, bicycles, and pedestrians; to provide adequate fire and police protection and stormwater control; and otherwise to protect the health, safety, and welfare of the citizens of Fluvanna County. (Ord. 8-1-12)

Sec. 22-26-2. Off-street parking and loading spaces required.

(A) There shall be provided at the time of erection of any building or at the time any main building is enlarged, or at the time of a change in use of a building or site, off-street parking and loading spaces as set forth in this section. No person, firm, or corporation shall build and occupy any structure or initiate the new use of any land without providing the off-street parking and loading spaces as set forth in this Section. Parking requirements shall not automatically be considered sufficient for any other use of the property. When there is a change in use of the property, additional parking spaces may be required if necessary to meet the standards established by this Section.

(B) Off-street parking and loading spaces shall be maintained in a clean, litter-free, serviceable, and orderly condition, and shall continue as long as the main use of the site is continued. No owner or operator of any structure affected by this section shall discontinue, change, or dispense with the required parking and loading areas without prior approval by the Zoning Administrator.

(C) No non-residential off-street parking space or loading space shall be used for the sale, repair, dismantling or servicing of any vehicle, equipment, materials, or supplies, or obstructed in any fashion.

(D) When a use that is non-conforming as to the required off-street parking and loading space is enlarged, additional off-street parking and loading space shall be required only on the basis of the enlargement.

(E) No Certificate of Occupancy for a new or changed use shall be granted unless the requirements of this Section are met.
(Ord. 8-1-12)

Sec. 22-26-3. Location of off-street parking.

(A) The off-street parking facilities required by this Section shall generally be located on the same lot or parcel of land that they are intended to serve.

(B) When consistent with the intent of this Article, the Zoning Administrator may approve off-street parking on property that is located within six hundred feet (600') of the development site. Before such approval is granted, a written agreement assuring the retention of property for parking use shall be properly drawn and executed by the parties, approved as to form by the county attorney, recorded with the county clerk, and filed with the Zoning Administrator.

(C) Nothing in this Section shall be construed to prevent the joint use of off-street parking between two (2) or more buildings or developments, or uses by two (2) or more owners or operators. In that case, the total number of parking spaces when combined or used together shall not be less than the sum of the requirements for the several individual uses computed separately, unless it can be demonstrated that by the nature of the several uses, the parking spaces will be in use at substantially different times of day. Before such approval is granted, a written agreement assuring the retention of property for parking use shall be properly drawn and executed by the parties, approved as to form by the county attorney, recorded with the county clerk, and filed with the Zoning Administrator.

(D) Where a parking lot is owned by Fluvanna County or another public body, and its spaces are open for use by the general public, said spaces may be used to meet the on-site parking requirement, provided that said parking lot is within six hundred feet (600') of the development site.

(E) With the approval of the Zoning Administrator, on-street parking spaces located within one hundred fifty feet (150') of the designated use may count towards the minimum off-street parking requirements. On-street parking spaces may be located on any private street or, with the approval of the Virginia Department of Transportation (VDOT), any public street. Each off-street parking space shall be on a paved area abutting the travelway.

(F) To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal structure(s) on the site.
(Ord. 8-1-12)

Sec. 22-26-4. Parking space standards.

(A) Parking Dimensional Standards

(1) Parking spaces and adjacent aisles shall conform to the dimensions listed in Table 1:

Table 1: Minimum Parking Space and Aisle Dimensions

Angle	**Type**	**Width**	**Stall Depth**	**One-Way Aisle Width**	**Two-Way Aisle Width**
0° (Parallel)	Standard	9 ft.	20.5 ft.	13 ft.	24 ft.
	Compact	7.5 ft.	18.5 ft.	12 ft.	24 ft.
30°	Standard	9 ft.	17 ft.	13 ft.	N/A
	Compact	8 ft.	14 ft.	12 ft.	N/A
45°	Standard	9 ft.	18 ft.	13 ft.	N/A
	Compact	8 ft.	16 ft.	12 ft.	N/A
60°	Standard	9 ft.	18 ft.	16 ft.	N/A
	Compact	8 ft.	16.5 ft.	15 ft.	N/A
90° (Perpendicular)	Standard	9 ft.	18 ft.	N/A	24 ft.
	Standard	10 ft.	18 ft.	N/A	20 ft.
	Compact	8 ft.	17 ft.	N/A	22 ft.

(2) The minimum stall depth requirements for perpendicular parking spaces may be reduced by up to two feet (2'), if the parking spaces are adjacent to planting strips or other landscaping features that allow for an unobstructed overhang equivalent to the reduction.

(3) Parking areas containing thirty (30) or more spaces may designate up to twenty percent (20%) of the minimum required parking spaces as compact car spaces. Such spaces shall meet the following requirements:

(a) All compact parking spaces shall conform to the dimensions listed in Table 1.

(b) Compact car parking spaces shall be located in one (1) or more continuous areas and shall not be intermixed with spaces designed for full-size vehicles.

(c) Compact car parking spaces shall be clearly designated by pavement markings and/or appropriate signage.

(4) Vehicular access roads, when not adjacent to parking spaces, shall meet the following requirements:

(a) The minimum travelway width for two-way access roads shall be twenty-four feet (24').

(b) One-way access roads are permitted, provided that the circulation pattern is contained within the site or sites shown on the site plan and public roadways are not incorporated as part of the circulation pattern. The minimum travelway for one-way access roads shall be twelve feet (12').

(B) Handicapped Parking

(1) Handicapped parking spaces shall have a minimum width of eight feet (8'), with an adjacent five foot (5') access aisle to be provided on one side of the handicapped space.

(2) Handicapped parking spaces shall have a minimum length of eighteen feet (18').

(3) In any parking lot of more than five (5) spaces, there shall be at least two (2) designated and properly signed as a handicapped space.

(4) In parking lots having more than five (5) spaces, at least one (1) per twenty-five (25) spaces shall be handicapped spaces in addition to the two (2) handicapped spaces already provided in 22-26-4(B)3.

(5) Handicapped parking spaces shall be situated so as to provide direct, unobstructed access to buildings by the shortest practical routing.

(C) Screening

(1) Parking lots consisting of five (5) or more spaces shall be screened from view of public roads, rights-of-way, and adjacent property, as specified in Article 24:[30] Landscaping and Tree Protection, of this ordinance.

(D) Landscaping

(1) Parking lots consisting of five (5) or more spaces are required to be landscaped, as specified in Article 24:[31] Landscaping and Tree Protection of this ordinance.

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[30] *Editor's Note* – Conformed to numbering convention of this code by editor. Appears as "Article 22-24" in the original.

(E) Lighting

(1) Parking lots consisting of five (5) or more spaces are required to have outdoor lighting meeting county requirements, as specified in Article 25: Outdoor Light Control[32] of this ordinance.

(F) Design Objectives

(1) Parking areas and vehicular circulation areas shall be designed to achieve the following objectives:

(a) to minimize on-site and off-site traffic hazards in order to provide safe and convenient access to the traveling public and to pedestrians,

(b) to reduce or prevent congestion on public streets,

(c) to facilitate unimpeded flow of on-site traffic in circulation patterns readily recognizable and predictable to motorists, bicyclists, and pedestrians,

(d) to facilitate the provision of emergency services,

(e) to minimize the negative impacts of stormwater runoff on local water quality, and

(f) to minimize the disturbance of existing vegetation.

(G) Signage

(1) Parking lots of five (5) or more vehicles are required to have signage, as specified in Article 15:[33] Sign Regulations, of this ordinance.

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[31] *Editor's Note* – Conformed to numbering convention of this code by editor. Appears as "Article 22-24" in the original.

[32] *Editor's Note* – Conformed to numbering and title convention of this code by editor. Appears as "Article 22-25 Outdoor Lighting Control" in the original.

(H) Interconnectivity

(1) When possible, parking facilities shall be designed to connect with other parking facilities on adjacent parcels, eliminating the need to use abutting streets for cross-movements.

(2) Pedestrian facilities required by this section shall connect with existing sidewalks within or adjacent to the site, if topography and other environmental conditions allow.

(I) Intersections

(1) Intersections of vehicular access aisles and public streets shall have an approach angle not exceeding four percent (4%) for a distance of not less than forty feet (40') measured from the edge of the travelway of the public road intersected.

(2) Entrances to parking areas from public or private roadways shall be designed and constructed in accordance with Virginia Department of Transportation (VDOT) standards.

(3) The centerline of any access point shall be set back from the street line of any intersecting street at least fifty feet (50') or one-half the lot frontage, whichever is greater, except that no required setback shall exceed two-hundred feet (200').

(4) The centerlines of any separate access points shall be spaced at least seventy-five feet (75') apart.

(J) Grades

(1) Grades of access aisles not abutting parking spaces shall not exceed ten percent (10%).

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[33] *Editor's Note*— Conformed to numbering convention of this code by editor. Appears as "Article 22-15" in the original.

(2) Grades of parking spaces, loading spaces, and access aisles abutting parking or loading spaces shall not exceed seven percent (7%) and cross slope grades shall not exceed four percent (4%).

(K) Drainage

(1) All off-street parking and loading facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.

(2) The use of low-impact development (LID) techniques to control stormwater runoff generated by parking areas is encouraged. Examples of LID techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters designed to capture stormwater and facilitate on-site infiltration.

(L) Pedestrian Facilities

(1) Sidewalks, pedestrian crosswalks, and other pedestrian facilities shall be provided within all parking facilities for five (5) or more vehicles.

(2) Sidewalks shall be located and aligned to directly and continuously connect points of pedestrian origin and destination, and shall not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access. Connecting walkways shall link building entrances with existing sidewalks along adjacent streets and with existing or proposed sidewalks on adjacent parcels.

(3) Sidewalks shall comply with the most recent Virginia Department of Transportation (VDOT) specifications.

(4) Sidewalks and other pedestrian facilities shall be separated from off-street parking, on-street parking, and loading and service areas by curbing or other protective devices.

(5) Where sidewalks associated with a parking area cross a public or private roadway, a crosswalk shall be clearly marked in accordance with Virginia Department of Transportation (VDOT) standards. The use of remedial treatments, such as raised pedestrian crossings, forecourts and landings, special paving, signs, lights, and bollards, at pedestrian crossings is encouraged.

(6) Sidewalks may be paved using hard-surfaced pervious paving materials, such as porous asphalt, porous concrete, or block pavers, as a method of stormwater management, provided that the use of such materials does not compromise the safety of pedestrians.

(M) Stacking Lanes

(1) Spaces for stacking of vehicles waiting for access to drive-through windows, automatic teller machines (ATMs), fuel pumps, car washes, and similar uses shall be required.

(2) Stacking lanes shall be designed so as not to impede on-site or off-site traffic movements, or movements into and out of parking spaces.

(3) Stacking lanes shall be separated from other interior drives or aisles by a raised or painted median, and shall be marked so as to be easily identified from a vehicle.

(4) No stacking lane shall be placed between any point of access and parking spaces.

(5) All stacking spaces shall be at least ten feet (10’) wide and eighteen feet (18’) long.

(6) Spaces in stacking lanes are required as follows:

(a) convenience store, filling stations: three (3) spaces per drive-in window and one (1) space per fuel pump;

(b) financial institutions with drive-in windows, including ATMs accessible from a vehicle: four (4) spaces per first window or ATM and two (2) spaces per each additional window or ATM;

(c) drive-in restaurants: eight (8) spaces for the first window and two (2) spaces for each additional window;

(d) Carwashes, automatic or drive-through: three (3) spaces per bay;

(e) All other uses with drive-through windows: three (3) spaces per window.

(Ord. 8-1-12; Ord. 12-16-15)

Sec. 22-26-5. Construction standards.

(A) All access aisles, parking, and loading facilities for five (5) or more vehicles shall be surfaced in accordance with intensity of usage and such improvement shall not be less than six (6) inches of Virginia Department of Transportation #21 or #21A aggregate base together with prime and double seal or equivalent. The use of hard-surfaced pervious paving materials, such as porous asphalt, porous concrete, or block pavers, is permitted as a method of stormwater management.

(1) The foregoing notwithstanding, the required improvement may be reduced to three inches (3") of gravel in the following cases: (1) for parking for places of worship and other assembly uses where evidence is presented to the Zoning Administrator that these spaces will not be used regularly on a daily basis or more than three (3) times a week; (2) for areas of display or storage of vehicles, mobile homes, machinery or other inventory requiring motor vehicle access for placement; provided, in no case, shall grassed or unimproved areas be devoted to inventory storage; or (3) single or two family dwelling units and uses adjacent or within that unit such as a small home industry, bed and breakfast, home occupation, etc.

(2) Grass pavers may be used, with the approval of the zoning administrator, where it is demonstrated that the vegetation will survive the amount of expected vehicular traffic.

(3) All guardrails in parking and loading facilities shall meet VDOT specifications.

(4) All parking and loading facilities shall be marked by painted lines, curbs, wheelstops, bumper blocks, or similar means to indicate individual spaces.

(Ord. 8-1-12)

Sec. 22-26-6. Off-street loading spaces.

(A) All off-street loading spaces shall be provided on the same lot with the use to which they are appurtenant.

(B) All off-street loading spaces shall have a minimum width of twelve feet (12'), a minimum clearance height of 14 ½ feet, and a depth sufficient to accommodate the largest delivery truck serving the establishment, but in no case less than twenty-five feet (25').

(C) Off-street loading spaces shall be provided in addition to and exclusive of parking spaces on the basis of:

(1) One (1) space for each eight thousand (8,000) square feet of retail space gross feasible area;

(2) One (1) space for each eight thousand (8,000) square feet of office space;

(3) One (1) space for each ten thousand (10,000) square feet of industrial area.

(Ord. 8-1-12)

Sec. 22-26-7. Interpretations of off-street parking and loading requirements.

(A) The off-street parking and loading requirements are in addition to space for the storage of trucks or other vehicles used in connection with any use.

(B) The off-street parking and loading requirements do not limit special requirements that may be imposed in the case of planned unit developments, conditional uses, or special exceptions.

(C) Where fractional spaces result, the parking spaces and loading spaces required shall be construed to be the next highest whole number.

(D) No inoperable vehicle shall be parked or stored on a lot in any zoning district unless the vehicle is within a fully enclosed building or structure, or are otherwise shielded or screened from view from all public roads and adjoining properties.

(Ord. 8-1-12)

Sec. 22-26-8. Off-street parking requirements.

(A) The off-street parking requirements for various uses are stated on Table 2.

(B) The off-street parking requirements for a use not specifically listed in Table 2[34] shall be determined by the Zoning Administrator based on the characteristics of the proposed uses, the number of residents or visitors, the minimum requirements for similar uses, and any other relevant characteristics. In making the determination, the Zoning Administrator may consider the recommendations of relevant parking studies as well as traffic generation figures, including information provided by the Institute of Traffic Engineers, peak parking demands, and other information.

(C) The number of parking spaces in a parking area may not exceed the number of spaces required by this section by more than forty percent (40%) unless approved by the Planning Commission. To mitigate the environmental and visual impacts of additional impervious cover on the surrounding community, at least one (1) of the following features shall be incorporated into the design upon approval of the excess parking:

(1) Additional spaces approved by the Planning Commission will be surfaced using pervious paving material, including, but not limited to, porous asphalt, porous concrete, or block pavers; or

(2) For every two (2) additional spaces approved by the Planning Commission, one (1) tree and three (3) shrubs will be planted on-site, in addition to the requirements specified in Article 24, Landscaping and Tree Protection,[35] of this ordinance.

(D) A reduction in the number of required parking spaces may, at the written request of the applicant, be granted with the approval of the Zoning Administrator as follows:

(1) A reduction in the number of required parking spaces may be granted in any one (1) of the following instances:

(a) For projects that include fifty (50) or more parking spaces on-site and are located within a designated growth area, the minimum number of parking spaces may be reduced by up to five percent (5%) if the project is located within three-hundred feet (300') of a transit stop and is connected to the transit stop by a sidewalk.

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[34] *Editor's Note* – "Table 1" in original; clerical error corrected by editor.

[35] *Editor's Note* – Conformed to numbering and title convention of this code by editor. Appears as "Article 22-24: Tree Protection" in the original.

(b) For projects that include fifty (50) or more parking spaces on-site and are located within a designated growth area, the minimum number of required parking spaces may be reduced by one parking space for every one (1) bicycle space provided on a permanently-constructed bicycle rack, provided that the minimum parking required is not reduced by more than five percent (5%).

(c) The minimum number of required parking spaces may be reduced by up to ten percent (10%), provided that one (1) tree and three (3) shrubs are planted for every two (2) spaces reduced, in addition to the requirements set forth in Article 24, Landscaping and Tree Protection,[36] of this ordinance.

(d) The Zoning Administrator may allow the number of required spaces to be reduced up to ten percent (10%) for projects within a designated growth area that meet new urban/neo-traditional planning principles and further the goals set forth in the Comprehensive Plan. Factors that may be considered when allowing a reduction include the density of the surrounding community; the range of land uses located within convenient walking distance; accessibility to mass transit; and the provision of facilities for bicyclists.

(e) The Zoning Administrator may allow the number of required spaces to be reduced up to twenty-five percent (25%), provided that a professionally-prepared parking study or similar documentation indicates that a reduction in the minimum parking requirements for a specific building or use would provide adequate parking facilities on-site.

(2) A site may not receive credit for more than one (1) strategy listed above. The possible reductions in the number of required parking spaces are not cumulative.

(3) When a reduction in the number of required parking spaces is permitted, the Zoning Administrator may, at his discretion, require the

[36] *Editor's Note* – Conformed to numbering and title convention of this code by editor. Appears as "Article 22-24: Tree Protection" in the original.

applicant to reserve space on-site that would accommodate the construction of additional parking in the future. The parking reserve area shall be designated on the site plan, and may not be converted to any other use without amendment of the site plan and the approval of the Zoning Administrator. The parking reserve area shall be sited to allow adequate pedestrian, bicycle, and automobile access, and shall be sized to accommodate a number of parking spaces equal to the amount of the parking reduction awarded. The intent of the parking reserve is to allow expansion of the parking area should the use or parking needs change.

(E) The provisions of this article for the application of individual parking standards for Planned Unit Developments located within the Zion Crossroads Urban Development Area may be modified at the discretion of the Planning Commission, provided that the Applicant submits a parking impact study that fully justifies the modification of the standards based on the mix of uses, the phasing of development, and other factors, including relationship of parking location to individual land uses within the project.

TABLE 2. OFF STREET PARKING REQUIREMENTS

USE	**PARKING REQUIREMENTS**
COMMERCIAL	
Animal Hospital, Veterinary Clinic, Animal Shelter	1 per 300 square feet
Automobile Repair Service Establishments	3 spaces plus 2 spaces for each service bay
Beauty and Barber Shops	2 spaces plus 2 spaces for every barber or beautician chair
Financial Institutions	1 per 250 square feet
Funeral Homes, Churches, other public assembly areas	1 per 4 fixed seats or 75 square feet of assembly area, whichever is greater
Furniture, Carpet, or Appliance Store	1 space per 500 square feet of retail sales area
Gas Stations	1.5 spaces per pump plus 2 spaces for each service bay
Greenhouse; nursery	1 per 250 square feet within retail sales area up to 15,000 gross square feet; 1 per 400 square feet thereafter Plus one per 1,000 gross square feet located in open storage/growing areas
Laundry	1 per 2 washing machines
Restaurant	1 per 100 gross square feet, minimum of 10
Retail Stores	1 per 250 square feet of up to 15,000 gross square

	feet; 1 per 400 square feet thereafter plus any required stacking lanes
Sale of Motor Vehicles, Mobile Homes, Travel Trailers	1 per 2000 square feet of display area
Shopping Center Gross Leasable Square Feet	
1 to 15,000	4 spaces per 1000 feet
15,000 to 50,000	3.5 spaces per 1000 feet
Greater than 50,000	3 spaces per 1000 feet
LODGING	
Country Inns, Boarding & Touring House, Bed & Breakfast	1 per unit
Hotels, Motels	1 per unit plus compliance with the requirements for each particular additional use located on premise.
RECREATION	
Assembly Hall, Dance Hall, Skating Rink	1 per 100 square feet
Indoor Recreation Facilities, Arcades	1 per 200 square feet
Campground	1 per campsite
Golf Course, Driving Range, Miniature Golf	2 per hole
Unspecified Recreational Use	1 per 125 square feet of usable recreation area
Stadiums, Arenas, Theaters	1 per 4 seats
RESIDENTIAL	
Dwellings, single family, two family, mobile homes	2 per unit
Dwellings, multi-family, efficiency/studio	1 per unit
Dwellings, multi-family, one bedroom	1.25 per unit
Dwellings, multi-family, two bedroom	1.5 per unit
Dwellings, multi-family, three or more bedrooms	2 per unit
Assisted Living Facility, Nursing Home	1 space per 3 residents plus 1 space per employee on largest shift
Group Home	0.5 spaces per bed at licensed capacity
OFFICE	
Office	1 space per 300 square feet of up to 15,000 square feet, 5 minimum; 1 space per 350 sq. ft. thereafter

INDUSTRIAL	
Manufacturing	1 per 2 employees on largest shift plus 1 space per company vehicle
Unspecified Industrial Uses	1 per 2 employees on largest shift plus 1 per 250 square feet open to the public
INSTITUTIONAL	
Day Care, Nursery School, Elementary School	1 per 9 pupils
Middle School	1 per 8 pupils
High School	1 per 3 pupils
Library, Museum, Art Gallery, Community Center	1 per 300 square feet
Professional School	1 space per 2 students at maximum capacity plus 1 space per classroom
Post Office	1 per 250 square feet, minimum of 5
UNSPECIFIED	Sufficient parking for average number of employees and visitors

(Ord. 8-1-12)

Article 27. Regulation of Telecommunications Facilities.

Sec. 22-27-1. Statement of intent.

The purpose of this article is to establish general guidelines for the siting of telecommunications antenna support facilities (TASFs) used for wireless telecommunications and broadcast facilities including the support facility, antenna(s), ground equipment, and accessory facilities related to telecommunications infrastructure.

The purpose and intent of this article is to promote the health, safety, and general welfare of the public, including but not limited to, such instances as:

- Potential injury to people around an antenna support facility and their appurtenant compounds;
- Potential damage to property;
- Potential injury and damage to low-flying public and private aircraft; and

- Potential negative economic impacts on the heritage and scenic tourist industry.

Further, the goals of this article are to:

(1) Minimize the impacts of telecommunication antenna support facilities (TASFs) on surrounding land uses by establishing standards for location, structural integrity, and compatibility;

(2) Avoid potential injury to persons and properties from telecommunication antenna support facility (TASF) failure and ice hazards through structural standards and setback requirements;

(3) Preserve the scenic and visual character of the geographic area by encouraging the location, design and architectural treatment of TASFs to avoid the disruption of the natural and built environment, and to insure harmony and compatibility with surrounding land use patterns;

(4) Facilitate the provision of telecommunication services to residents, businesses, and visitors;

(5) Provide a uniform and comprehensive framework for evaluating proposals for TASFs;

(6) Encourage builders and tenants of TASFs and antennas to locate them, to the extent possible, in areas where the visual impact on the community is minimal;

(7) Encourage the location and colocation of telecommunication equipment on existing TASFs thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional TASFs;

(8) Accommodate the growing need and demand for telecommunication services;

(9) Encourage coordination between suppliers and providers of telecommunication services;

(10) Establish predictable and balanced codes governing the construction and location of TASFs, within the confines of permissible local regulations;

(11) Establish review procedures to ensure that applications for TASFs are reviewed and acted upon within a reasonable period of time;

(12) Respond to the policies embodied in the Telecommunications Act of 1996, if applicable, in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services;

(13) Encourage the use of public lands, buildings, and emergency services facilities as locations for telecommunications infrastructure demonstrating where possible concealed technologies and revenue generating methodologies; and

(14) Consideration of and compatibility with the goals and objectives of the County's Comprehensive Plan.
(Ord. 9-21-11)

Sec. 22-27-2. Existing telecommunications antenna support facilities.

Telecommunications antenna support facilities (TASFs) existing or permitted prior to the adoption of this Article shall be subject to the provisions of Article 16: Nonconforming Uses of this ordinance. (Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-3. Exempt telecommunications antenna support facilities.

The following items are exempt from the provisions of this Article; notwithstanding any other provisions:

(1) Satellite earth stations that are one (1) meter or less in diameter in all residential zoning districts and two (2) meters or less in all other zoning districts; and

(2) A government-owned TASF:

(A) upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the county designee; except that such facility must comply with all federal and state requirements; and

(B) erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide telecommunications for public health and safety;

(3) A temporary, commercial antenna support facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the county and approved by the county; except that such facility must comply with all federal and state requirements. The telecommunications antenna support facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency; and

(4) A temporary, commercial antenna support facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to administrative zoning approval by the county, except that such facility must comply with all federal and state requirements. Said telecommunications antenna support facility will be exempt from the provisions of this division up to one (1) week after the duration of the special event.
(Ord. 9-21-11)

Sec. 22-27-4. Applicability.

This Article shall apply to the development activities including installation, construction, or modification of all TASFs including but not limited to:

(1) Antenna support facilities used for amateur radio station antennas;

(2) Existing TASFs;

(3) Proposed TASFs (concealed and non-concealed);

(4) Public antenna support facilities;

(5) Replacement of existing TASFs;

(6) Mitigation of TASFs;

(7) Colocation on an existing TASF;

(8) Attached antenna (concealed and non-concealed);

(9) Broadcast facilities; and

(10) Wireless broadband facilities.
(Ord. 9-21-11)

Sec. 22-27-5. Abandonment and/or discontinued use.

In the case of any TASF which was erected pursuant to the provisions of this Article, notice shall be provided to the Department of Planning and Community Development when the use of a telecommunications antenna support facility is discontinued. If the use of the telecommunications antenna support facility has been discontinued for a continuous period of two (2) years, then the TASF owner/operator or the property owner shall remove the telecommunications antenna support facility, but not including the base (foundation), within ninety (90) days of removal notification by the county.

An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The county may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good cause. If the TASF and all attachments thereto are not removed within this time, the county may give notice that it will contract for removal within thirty (30) days following written notice to the owner. Thereafter, the county may cause removal of the TASF with costs being borne by the owner.

Upon removal of the TASF, antenna, and equipment compound, the development area shall be returned to the extent possible to its natural state, with topography and vegetation consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal.
(Ord. 9-21-11)

Sec. 22-27-6. Definitions.

For purposes of this Article 27, the following terms shall be defined as follows:

Abandoned: Any antenna support facility without any mounted transmitting and/or receiving antennas in continued use.

Alternative structure: A facility that is not primarily constructed for the purpose of supporting antennas but on which one or more antennas may be mounted. Alternative facilities include, but are not limited to, buildings, water tanks, light stanchions, pole signs, billboards, church steeples and electric power transmission antenna support facilities.

Amateur radio tower: Any antenna support facility used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio facilities.

Ancillary structure: For the purposes of this Article, any form of development associated with a telecommunications facility, including but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

Anti-climbing device: A piece or pieces of equipment, which are either attached to an antenna support facility, or which are freestanding and are designed to prevent people from climbing the facility. These devices may include but are not limited to fine mesh wrap around facility legs, "squirrel-cones," or other approved devices, but excluding the use of barbed or razor wire.

Antenna: Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television telecommunications. Types of antenna include, but are not limited to: omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas. (In most AM broadcast station situations the antenna support facility(s) is/are the antennas(s)).

Antenna array: A group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support facility for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna element: Any independent single unit which individually or collectively with other elements comprise a transmit/receive antenna.

Antenna support facility: A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support facilities do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet (20'). Types of support facilities include but are not limited to the following: guyed, lattice, monopole, concealed flag pole, slick stick, faux tree, faux fire tower, light stanchion facilities.

Antenna support facility base: The foundation, usually concrete, on which the antenna support facility and other support equipment are situated. For measurement calculations, the antenna support facility base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the antenna support facility.

Antenna support facility height: The vertical distance measured from the grade line to the highest point of the antenna support facility, including any antenna, lighting, lightning protection or other equipment affixed thereto.

Antenna support facility site: The land area that contains, or will contain, a proposed antenna support facility, support facility and other related buildings and improvements.

ASR: The Antenna Structure Registration Number as required by the FAA and FCC.

Attached antenna: A facility which is not primarily constructed for the purpose of holding antenna(s) but on which one or more antenna(s) may be mounted. Examples include but are not limited to water tanks, rooftops, light poles and utility distribution poles.

Base station: The electronic equipment utilized by the telecommunication provider(s) for the transmission and reception of radio signals.

Breakpoint technology: The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole. For example, on a 100-foot tall monopole with a breakpoint at eighty feet (80'), the minimum setback distance would be twenty-two feet (22') (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) or the minimum side or rear yard setback requirements for that zoning district, whichever is greater.

Broadcast facilities: Antenna support facilities, antennas, and/or antenna arrays for FM/TV/HDTV broadcasting transmission facilities, and antenna support facility(s) utilized as antennas for an AM broadcast station that are licensed by the Federal Communications Commission.

Colocation: The practice of installing and operating multiple wireless service providers, and/or radio common carrier licensees on the same antenna support facility or attached telecommunication facility using different and separate antenna, feed lines and radio frequency generating equipment.

Combined antenna: An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

Concealed: An antenna support facility; ancillary facility; or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two (2) types of concealed facilities: 1) antenna attachments, and 2) freestanding. Examples of a concealed attached facility include, but are not limited to the following: painted antenna and feed lines to match the color of a building or facility, faux windows, dormers or other architectural features that blend with an existing or proposed building or facility. Freestanding concealed antenna support facilities usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell antenna support facility, clock antenna support facility, light standard, flagpole with or without a flag, or tree.

Development area: The area occupied by a telecommunications antenna support facility including areas inside or under the following: an antenna-support facility's framework, equipment cabinets, ancillary facilities and access ways.

Equipment cabinet: Any facility above the base flood elevation including: cabinets, shelters, pedestals, and other similar facilities. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Equipment compound: The fenced area surrounding the ground-based communication facility including the areas inside or under the following: an antenna support facility's framework and ancillary facilities such as equipment necessary to operate the antenna on the antenna support facility that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar facilities.

FAA: The Federal Aviation Administration.

Facility: Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

FCC: The Federal Communications Commission.

Feed lines: Cables used as the interconnecting media between the transmission and/or receiving base station and the antenna.

Flush mounted: Any antenna or antenna array attached directly to the face of the support facility or building such that no portion of the antenna extends above the height of the support facility or building. Where a maximum flush-mounting distance is given, that distance

shall be measured from the outside edge of the support facility or building to the inside edge of the antenna.

Guyed antenna support facility: A style of antenna support facility consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Geographic search ring: An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Handoff candidate: A wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

Intermodulation distortion: The preventable and avoidable results of the mixture of two certain and specific radio frequencies (3rd Order); or more certain or specific radio frequencies (5th Order), that creates at least one other unwanted, undesirable, and interfering radio frequency (3rd Order), or multiple other unwanted, undesirable, and interfering radio frequency signals (5th Order).

Lattice antenna support facility: A tapered style of telecommunication antenna support facility that consists of vertical and horizontal supports with multiple legs, crisscross-bracing and metal crossed diagonal strips or rods to support antennas.

Least visually obtrusive profile: The design of a telecommunication antenna support facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

Mitigation: A modification of an existing telecommunication antenna support facility to increase the height or to improve its integrity, by replacing or removing one or several facilities located in proximity to a proposed new antenna support facility in order to encourage compliance with this Article or improve aesthetics or functionality of the overall wireless network.

Monopole antenna support facility: A style of free-standing telecommunication antenna support facility consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of antenna support facility

is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

Non-concealed: A telecommunication antenna support facility that is readily identifiable as such and can be either freestanding or attached.

Personal wireless service: Commercial mobile services, licensed or unlicensed wireless services, and common carrier wireless exchange access services, as defined in the *Telecommunications Act of 1996*.

Public safety telecommunications facility: All telecommunications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the county and operating within a frequency range of, including but not limited to, 150 MHz, 450 MHz, 700 MHz, 800 MHz, 1,000 MHz, VHF, UHF, and any future spectrum allocations at the direction of the FCC.

Radio frequency emissions: Any electromagnetic radiation or other telecommunications signal emitted from an antenna or antenna-related equipment on the ground, antenna support facility, building, or other vertical projection.

Replacement antenna support facility: The removal of an existing telecommunication antenna support facility for purposes of erecting a new telecommunication antenna support facility for the purposes of improving structural integrity.

Satellite earth station: A single or group of parabolic (or dish) antennas are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless telecommunications signals with satellites.

Telecommunication Antenna Support Facility (hereinafter "TASF": Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other telecommunications, and usually consisting of an antenna support facility (see definition), feed lines, base station(s), and antenna(s) and antenna array(s). The following are included in the telecommunication antenna support facility: new, mitigated, replacement, and/or existing concealed and non-concealed antenna support facilities, public antenna support facilities, colocations, antenna attachments, broadcast, and wireless broadband facilities.

Wireless broadband facility: An unstaffed location for the wireless transmission and/or reception of broadband data services exclusively, usually consisting of an antenna

support facility, an antenna or group of antennas, transmission cables, and equipment cabinets.
(Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-7. Siting hierarchy.

Siting of a new antenna array or new TASF shall be in accordance with the preferred siting hierarchy in the order outlined below. All siting options are preferred to be located on publicly-owned property, as identified in the county's Telecommunications Master Plan, as a first option. The location of antenna array or other facilities on non-publicly-owned property is acceptable as a secondary option within each category.

(1) Concealed attached antenna;

(2) Colocation; antenna modification; combined antenna(s) on existing TASF;

(3) Colocation or new TASF in utility right-of-way;

(4) Non-concealed attached antenna;

(5) Replacement of existing TASF;

(6) Mitigation of existing TASF;

(7) Concealed freestanding TASF;

(8) Non-concealed freestanding TASF:

(a) Monopole

(b) Lattice

(c) Guyed

The order of ranking preference, highest to lowest, shall be from (1) to (8)(c). Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in the development standards in this Article including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed TASF.

(Ord. 9-21-11)

Sec. 22-27-8. Siting preference table.

New antennas and TASFs shall be allowed per the Siting Preference Table. The column on the left identifies the County's zoning district classifications. The columns across the top lists the different TASFs listed in the siting hierarchy.

Siting Preference Table							
Zoning Districts	**Permitted Telecommunications Facilities & Level of Development Standards**						
	Amateur Radio Facility & Comparable Antenna Element Replacement	Concealed Attached; Antenna Colocation, Antenna Modification; Noncomparable Antenna Element Replacement, Combining; and Non-concealed Attached Antenna	Replacement Antenna Support Facility	Mitigation of Existing Antenna Support Facility	Concealed Freestanding Antenna support facility	Non-Concealed Freestanding Antenna support facility	Broadcast Facility
A-1	B	B	B	S	B	S	S
R-1	B	B	B	S	B	S	Not allowed
R-2	B	B	B	S	S*	Not allowed	Not allowed
R-3	B	B	B	S	S*	Not allowed	Not allowed
R-4	B	B	B	S	S*	Not allowed	Not allowed
B-1	B	B	B	S	B	S	Not allowed
B-C	B	B	B	S	B	S	Not allowed
I-1	B	B	B	S	B	S	S
I-2	B	B	B	S	B	S	S
MHP	B	B	B	S	B	Not allowed	Not allowed
PUD	B	B	B	S	B	S	S

B: By Right – Administrative
S: Special Use Permit – Public Hearing Process
S* Any mitigation of an existing SUP requires an amendment through the SUP process
(Ord. 9-21-11)

Sec. 22-27-9. Development standards.

(Ord. 9-21-11)

Sec. 22-27-9.1. Special provisions related to amateur radio antennas.

An amateur radio antenna may be deemed to be an accessory structure to any permitted use, provided that the same shall conform to the definition of accessory structure. The maximum height regulations shall not apply to any such antenna; provided that such antenna shall be the minimum height which will reasonably achieve its intended purpose as permitted by the Federal Communications Commission. There shall be no restriction of the number of support structures for such antenna. Reasonable and customary engineering practices shall be followed in the erection of such antennas. Any person erecting any such antenna shall provide to the zoning administrator a statement from a licensed professional engineer certifying that such erection conforms to reasonable and customary engineering practices. The zoning administrator shall require that each such antenna be so located as to protect adjacent properties and uses in consideration of its design. The zoning administrator may require reasonable screening of each such antenna from adjacent properties.
(Ord. 6-15-05)

Additionally the applicant shall provide a valid FCC amateur operator's license. (Ord. 9-21-11)

Sec. 22-27-9.2. Antenna element replacement.

For any replacement of a comparable existing antenna element (size, weight and frequency) on an antenna support facility, prior to making such replacement, the applicant shall submit and provide the following:

(1) A written statement setting forth the reasons for the replacement;

(2) A stamped or sealed certification from a registered professional engineer that the replacement antenna(s) (i) have a lower wind and weight profile; (ii) the number of antenna elements will not increase, (iii) there is no significant change in frequency utilization; and (iv) there is no requirement for a new structural analysis; and

(3) There shall be no increase in the size or number of existing feed lines utilized for the existing antenna and/or antenna array.
(Ord. 9-21-11)

Sec. 22-27-9.3. Concealed attached antenna.

Concealed attached antenna shall be subject to the following:

(1) The top of the attached antenna shall not be more than twenty feet (20') above the existing or proposed building or facility; and

(2) When an attached antenna is to be located on a nonconforming building or facility, then the existing permitted nonconforming setback shall prevail; and

(3) Feed lines, antennas and hardware shall be designed to architecturally match the façade, roof, wall, or facility on which they are affixed so that they blend with the existing structural design, color, and texture; and

(4) Equipment cabinets shall be located within the existing building or behind an opaque enclosure matching the architectural designs and colors of the principal building or facility; and

(5) New equipment cabinets are subject to the underlying zoning setbacks.
(Ord. 9-21-11)

Sec. 22-27-9.4. Non-concealed antenna attachments.

Non-concealed attachments shall only be allowed on electrical transmission support facilities and as light stanchions subject to approval by the Department of Planning and Community Development and the utility company and subject to the following:

(1) The top of the attached antenna shall not be more than twenty feet (20') above the existing or proposed building or facility; and

(2) New equipment cabinets are subject to the underlying zoning setbacks.
(Ord. 9-21-11)

Sec. 22-27-9.5. Colocation, colocation modifications, antenna element replacements of different size, weight or frequency utilization, or combining antenna.

(1) A colocated or combined antenna or antenna array shall not exceed the maximum height prescribed in the Special Use Permit (if applicable) or increase the height of an existing facility by more than twenty feet (20') and shall not affect any antenna support facility lighting;

(2) New antenna mounts shall be flush-mounted onto existing facilities, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area;

(3) The new equipment cabinet shall be subject to the setbacks of the underlying zoning district. If the colocation or combined antenna is located on a nonconforming building or facility, then the existing permitted nonconforming setback(s) shall prevail; and

(4) Equipment cabinets shall be located within the existing equipment compound. If the existing equipment compound is not sized adequately to accommodate the new proposed ground equipment, then a revised site plan of the original TASF site shall be submitted addressing the overall ground space for said TASF.
(Ord. 9-21-11)

Sec. 22-27-9.6. Replacement antenna support facility.

(1) Height: The height of a replacement antenna support facility shall equal the height of the facility being replaced. If the replacement TASF exceeds this threshold then it will be reclassified as a mitigation facility.

(2) Setbacks: A new TASF approved for replacement of an existing TASF shall not be required to meet new setback standards so long as the new TASF and its equipment compound are no closer to any property lines or dwelling units as the TASF and equipment compound being mitigated.

(3) Breakpoint technology: A newly replaced monopole antenna support facility shall use breakpoint technology in the design of the replacement facility; and

(4) Buffers: At the time of replacement, the antenna support facility equipment compound shall be brought into compliance with any applicable buffer requirements.[37]
(Ord. 9-21-11)

Sec. 22-27-9.7. Mitigation antenna support facility.

Mitigation shall accomplish a minimum of one (1) of the following: 1) reduce the number of TASFs; or 2) reduce the number of nonconforming TASFs; or 3) replace an existing TASF with a new TASF to improve network functionality resulting in compliance with this Article. Mitigation is subject to the following:

[37] Editor's Note – "; and" has been deleted as a clerical error.

(1) Height: TASF approved for mitigation shall not exceed one hundred and twenty (120%) percent of the height of the tallest TASF that is being mitigated. (For example a 100' existing TASF could be rebuilt at 120'). Mitigated SUPS require a SUP amendment;

(2) Setbacks: A new TASF approved for mitigation of an existing TASF shall not be required to meet new setback standards so long as the new TASF and its equipment compound are no closer to any property lines or dwelling units as the TASF and equipment compound being mitigated. (For example, if a new TASF is replacing an old one, the new one is allowed to have the same setbacks as the TASF being removed, even if the old one had nonconforming setbacks.) The intent is to encourage the mitigation process, not penalize the TASF owner for the change out of the old facility;

(3) Breakpoint technology: A newly mitigated monopole antenna support facility shall use breakpoint technology in the design of the replacement facility. Certification by a registered professional engineer licensed by the Commonwealth of Virginia of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(4) Buffers: At the time of mitigation, the TASF equipment compound shall be brought into compliance with any applicable buffer requirements;

(5) Visibility: Mitigated TASFs shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots; and

(6) If the mitigation includes the removal of an existing TASF, then that facility, excluding the antenna support facility foundation, shall be removed within ninety (90) days of the construction of the new TASF.
(Ord. 9-21-11)

Sec. 22-27-9.8. New telecommunication antenna support facility.

All new TASFs shall meet the following requirements:

(1) No new TASF shall be permitted unless the applicant demonstrates that no existing TASF can accommodate the applicant's proposed use; or that use of such existing TASF would prohibit personal wireless services in the geographic search area to be served by the proposed TASF.

(2) Setbacks: New freestanding TASFs and equipment compounds shall be subject to the setbacks described below:

(a) If the TASF has been constructed using breakpoint design technology (see Section 22-27-6. Definitions.), the minimum setback distance shall be equal to 110 percent of the distance from the top of the facility to the breakpoint level of the facility, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of Virginia of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(b) Concealed TASFs in residential districts not constructed using breakpoint design technology; the minimum setback distance shall be equal to the height of the proposed TASF from all existing structures.

(c) All other non-broadcast TASFs not constructed using breakpoint design technology; the minimum setback distance shall be equal to the height of the proposed TASF from all property lines.

(3) Equipment Compound: The fenced-in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a TASF equipment compound, and the compound shall not be used as habitable space.

(4) Equipment cabinets: Cabinets shall not be visible from pedestrian views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(5) Fencing: All equipment compounds shall be enclosed with an opaque fence. Alternative equivalent screening may be approved through the site plan approval process described in "Buffers" below.

(6) Buffers shall be provided as described in Article 24: Landscaping and Tree Protection of this ordinance.

(7) Signage: Commercial messages shall not be displayed on any antenna support facility. Noncommercial signage shall be subject to the following:

(a) The only signage that is permitted upon a TASF, equipment cabinets, or fence shall be informational, and for the purpose of identifying the TASF (by the FCC ASR registration number), as well as the party responsible for the operation and maintenance of the facility; i.e. the address and telephone number, security or safety signs, and property manager signs (if applicable).

(b) Identification signage shall be provided at all TASFs.

(c) If more than two hundred twenty (220) volts are necessary for the operation of the facility and is utilized within the equipment compound or on the TASF, signs located every twenty feet (20') and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter four inches (4")) the following: "HIGH VOLTAGE - DANGER."

(8) Lighting: Lighting on TASF shall not exceed the Federal Aviation Administration (FAA) minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding property, consistent with FAA requirements.

(9) Balloon Test:

(a) The applicant shall arrange to raise a balloon of a color or material that provides maximum visibility and no less than three feet (3') in diameter, at the maximum height of the proposed facility and within fifty (50) horizontal feet of the center of the proposed TASF.

(b) The applicant shall inform in writing the zoning administrator, abutting property owners, elected board of supervisor, and appointed planning commissioners of the district of the date and times of the test at least fourteen (14) days in advance.

(c) The applicant shall request in writing permission from the abutting property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.

(d) The date, time and location of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven (7) but no more than fourteen (14) days in advance of the test date. The advertisement shall also

include an alternate inclement weather date for the balloon test.

(e) Signage similar to rezoning signage shall be posted on the property to identify the location on the property where the balloon is to be launched. This signage shall be posted by the applicant a minimum of seventy-two (72) hours prior to the balloon test. If unsuitable weather conditions prevail on the date of the balloon test then cancellation of the test shall be clearly noted on the signage.

(f) The balloon shall be flown for at least four (4) consecutive hours during daylight hours on the date chosen.

(g) The applicant shall record the weather during the balloon test. If the wind during the balloon test is above twenty miles per hour (20 mph) then the balloon test shall be postponed and moved to the alternate inclement weather date provided in the advertisement.

(10) All TASFs up to 120 feet in height shall be engineered and constructed to accommodate no less than three (3) antenna arrays. All TASFs between 121 feet and 150 feet in height shall be engineered and constructed to accommodate no less than five (5) antenna arrays. All TASFs taller than 151 feet in height shall be engineered and constructed to accommodate no fewer than six (6) antenna arrays.

(11) Grading shall be minimized and limited only to the area necessary for the new TASF and equipment compound, along with any necessary access easements or rights-of-way.

(12) Parking. One parking space is required for each TASF development area. The space shall be provided within the leased area, or equipment compound or the development area as defined on the site plan.

(13) Emergency Generators shall be allowed at each TASF site.

(14) Sounds. No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. The sound level for emergency generators shall not exceed 70 db at the property limits and testing shall only be between 9 AM to 4 PM Monday through Friday.
(Ord. 9-21-11)

Sec. 22-27-9.8.A. Additional development standards for concealed telecommunications antenna support facility.

All new concealed antenna support facilities shall meet the following requirements:

(1) In residential districts, new concealed TASFs shall only be permitted on lots whose principal use is not single-family residential including but not limited to: schools; places of worship; and fire stations, parks, and other public property.

(2) Height:

(a) Where permitted in residential districts the maximum height shall be 140 feet.

(b) In all other districts the maximum height shall be limited to 199 feet.

(3) Visibility: New concealed TASFs shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties. The applicant shall provide simulated photographic evidence of the proposed TASF and antenna appearance from any and all residential areas within 1,500-foot and vantage points approved by the zoning administrator or designee including the facility types the applicant has considered and the impact on adjacent properties including:

(a) Overall height;

(b) Configuration;

(c) Physical location;

(d) Mass and scale;

(e) Materials and color;

(f) Illumination;

(g) Architectural design; and

(h) New concealed freestanding TASFs shall be designed to match adjacent facilities and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.

(Ord. 9-21-11)

Sec. 22-27-9.8.B. Additional development standards for non-concealed telecommunications antenna support facility.

(1) Height.

It is intended that all new non-broadcasting TASFs, other than amateur radio towers, be 199 feet or less in height. However, should there be a demonstrated need for a TASF in excess of 199 feet, under no circumstance shall any non-broadcast or non-emergency service facility exceed 250 feet in height. All new non-broadcast facilities shall be subject to the following additional requirements:

(a) Propagation maps and corresponding data including but not limited to topographic and demographic variables for the intended service area shall be provided for review illustrating with detail that the service area and intercoupling hand-off will be sufficiently compromised to require an additional TASF for network deployment, which would not otherwise be required.

(b) The TASF shall be designed to allow for a future reduction of elevation to no more than 199 feet, or the replacement of the TASF with a monopole type facility at such time as the wireless network has developed to the point that such a reduction in height can be justified.

(2) In the Agricultural, General, A-1 district, new non-broadcast facilities shall be setback a minimum 500 feet from any single-family dwelling unit, either on the same zone lot or from all adjacent lots of record.

(3) Freestanding non-concealed antenna support facilities shall be limited to monopole type antenna support facilities, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.
(Ord. 9-21-11)

Sec. 22-27-9.8.C. Additional development standards for broadcast antenna support facility.

(1) Height for broadcast facilities shall be evaluated on a case by case basis; the determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the antenna support facility height required for such broadcast facilities.

(2) New broadcast facilities and anchors shall be setback a minimum of 500 feet from any single-family dwelling unit located on the same parcel or lot; and the antenna support structure (but not the anchors for a guyed structure) shall be setback a minimum of one foot (1') for every one foot (1') of antenna support facility height from all adjacent lots of record.

(3) Except for AM broadcast facilities, cabinets shall not be visible from pedestrian views.

(4) All broadcast antenna support facilities, AM antenna support facilities, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.
(Ord. 9-21-11)

Sec. 22-27-9.9. Wireless broadband facility.

(1) A wireless broadband facility may be colocated in accordance with the provisions of Sections 22-27-9.5 and 22-27-10.2 of this Article, as applicable; and

(2) A wireless broadband facility proposed for a new physical site shall comply with the provisions of Section 22-27-8. hereinabove.
(Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-10. Submittal requirements for all TASFs.

(1) Completion of the "Telecommunications Facility Application";

(2) Application fee;

(3) Two (2) sets of site plans (drawn to scale) addressing all development standards specific to the proposed installation.

(4) Compliance with siting hierarchy (Section 22-27-7 of this Article**)**: A report and supporting technical data demonstrating that all antenna attachments and colocations including all potentially useable utility distribution antenna support facilities and other elevated facilities within the proposed service area, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons existing facilities such as utility distribution and other elevated facilities are not acceptable alternatives to a new freestanding antenna support facility. The report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing TASF could accommodate the applicant's proposed facility shall consist of any of the following:

(a) No existing TASF located within the geographic area meet the applicant's engineering requirements, and why; and

(b) Existing TASFs are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height; and

(c) Existing TASFs do not have sufficient structural integrity to support the applicant's proposed telecommunications facilities and related equipment, and the existing facility cannot be sufficiently improved; and

(d) Other limiting factors that render existing TASFs unsuitable.

(Ord. 9-21-11)

Sec. 22-27-10.1. Additional submittal requirements for antenna element replacement.

For any replacement of an existing antenna element on a TASF of comparable size, weight and frequency use, the applicant must, prior to making such modifications, submit the following:

(1) A written statement setting forth the reasons for the modification.

(2) A description of the proposed modifications to the antenna, including any proposed modifications to antenna element design, type and number including manufacturer's model number of the existing and proposed antenna elements; as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.

(Ord. 9-21-11)

Sec. 22-27-10.2. Additional submittal requirements for attached antenna (concealed and non-concealed); colocations; colocation modifications; antenna replacements of different size, weight or frequency, and antenna combining.

Additional requirements for applications for attached antenna, both concealed and non-concealed; colocations; colocation modifications; antenna replacements of a different size, weight or frequency; and antenna combining shall include all of the following:

(1) A written statement setting forth the reasons for the request.

(2) A description of the proposed request, including any proposed modifications to antenna element design, type and number including manufacturer's model number of the

existing and proposed antenna elements; as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.

(3) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).

(4) A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards relating to interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards relating to human exposure to RF energy.

(5) A stamped or sealed structural analysis of the existing facility prepared by a registered professional engineer licensed by the State of Virginia indicating that the existing TASF as well as all existing and proposed appurtenances meets Virginia Building Code requirements (including wind and ice loading) for the antenna support facility.
(Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-10.3. Additional submittal requirements for all freestanding telecommunication and broadcast antenna support facilities.

Additional requirements for applications for freestanding telecommunications and broadcast antenna support facilities shall include all of the following:

(1) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Virginia showing all existing uses, facilities, and improvements.

(2) Site development plan regulations as set forth in Article 23 of this ordinance.

(3) Proof that a property and/or antenna support facility owner's agent has appropriate authorization to act upon the owner's behalf (if applicable). A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed

facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.

(4) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).

(5) A written statement by a registered professional engineer licensed by the State of Virginia specifying the design structural failure modes of the proposed facility, if applicable.

(6) A pre-application conference will be required for any new broadcast facility.

(7) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.

(8) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.
(Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-10.3.A. Additional submittal requirements for non-broadcast TASFs.

Additional requirements for applications for non-broadcast TASF's shall include all of the following:

(1) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of Virginia or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed TASF, and accompanying maps and calculations demonstrating the need for the proposed TASF.

(2) A map showing the geographic search ring.

(3) The applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed TASF and equipment on all adjacent residential zoning districts.

(4) Materials detailing the locations of existing TASFs to which the proposed TASF will be a handoff candidate; including latitude, longitude, and power levels of the proposed and existing antenna is required.

(5) A radio frequency propagation plot indicating the coverage of existing TASFs, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, colocation, or new TASF. NOTE: These documents are required to justify a facility and to determine if the proposed location is the only or best one in the designated geographic area of the proposed facility.

(6) A stamped or sealed certification from a registered radio frequency engineer demonstrating compliance with Section 22-27-7: Siting hierarchy of this Article. If a lower ranking alternative is proposed the certification must address why higher ranked options are not technically feasible, practical or justified given the location of the proposed telecommunications facility.
(Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-10.3.B. Additional submittal requirement for broadcast antenna support facilities.

For applications for broadcast antenna support facilities, the technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application. (Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-11. Approval processes.
(Ord. 9-21-11)

Sec. 22-27-11.1. "By right" application.

The review of any and all "by right" applications shall be as follows:

(1) The Zoning Administrator or designee shall review the request, application, and submitted documents for compliance with all requirements of this Article. The county may, at its discretion, obtain additional technical assistance to review and assess the technical merits of the documents.

(2) If the Zoning Administrator or designee determines the application and documentation meets all of the requirements of this Article, the county shall approve the application package and the applicant may proceed to request a building permit.

(3) If the Zoning Administrator or designee determines the application and/or documentation fails to meet all the requirements of the Article, then the county shall provide written notification to the applicant as to the materials which need to be amended or supplied for review. The applicant shall provide to the county any requested materials for review. This process shall continue until the county has approved the application package, at which time the applicant may proceed to request a building permit.

(4) If the Zoning Administrator or designee determines the application and documentation fails to meet the intent of this Article, the county may deny the request in writing.

(5) Appeals from a decision made by the Zoning Administrator shall be to the Board of Zoning Appeals.
(Ord. 9-21-11; Ord. 12-16-15)

Sec. 22-27-11.2. Special use permit application.

The approval of a special use permit shall be governed by the processes described in Section 22-17-4 of this Chapter. (Ord. 9-21-11)

Sec. 22-27-12. Interference with public safety communications.

In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a colocation shall agree in a written statement to the following:

(1) Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations.

(2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

(3) In the case of an application for colocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the county's public safety telecommunications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.

(4) Whenever the county has encountered radio frequency interference with its public safety telecommunications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:

(a) The county shall provide notification to all wireless service providers operating in the county of possible interference with the public safety telecommunications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the county and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.

(b) If any equipment owner fails to cooperate with the county in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the county public safety telecommunications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the county for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the county to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within twenty-four (24) hours of county's notification.

(Ord. 9-21-11)

Sec. 22-27-13. Publicly-owned property.

(1) Pursuant to applicable law, the county may contract with a third party to administer publicly-owned sites for purposes of developing the sites as part of a master telecommunications plan, consistent with the terms of this Article. Except as specifically

provided herein, the terms of this Article, and the requirements established thereby, shall be applicable to all TASFs to be developed or collocated on county-owned sites.

(2) If an applicant requests a permit to develop a site on county-owned property, the permit granted hereunder shall not become effective until the applicant and the county have executed a written agreement setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted, and no permit granted under this section shall convey any right, privilege, permit, or franchise to occupy or use the publicly-owned sites of the county for delivery of telecommunications services or any other purpose except as provided in such agreement.
(Ord. 9-21-11)

Sec. 22-27-14. Fees for supplemental review.

Where the county deems it appropriate because of the complexity of the methodology or analysis required to review an application for a wireless communication facility, the county may require the applicant to pay for a technical review by a third party expert, selected by the county, the costs of which $4,000.00 shall be borne by the applicant, and be in addition to other applicable fees. Site plan review for antenna element replacements only may be reduced to $1,800.00 provided the applicant meets all the requirements for an antenna element replacement. If however, during the antenna element replacement site review it is determined the request does not meet the definition of an antenna element replacement, then review of the application will cease until the correct fee and correct plans are submitted. Further, if additional information is needed to evaluate the applicant's request, the applicant, shall make such additional information available as the county might reasonably request. (Ord. 9-21-11)

Sec. 22-27-15. Height, setback and other dimensional regulations.

Except as otherwise expressly provided in this ordinance with respect to public safety services facilities or with respect to the provisions of any existing special use permit, the provisions of this Article shall control as the maximum permitted height, minimum setback and any other dimensional requirements for any TASF. (Ord. 9-21-11)

APPENDIX TO FLUVANNA COUNTY CODE

AN ORDINANCE TO AUTHORIZE PARTICIPATION BY THE COUNTY OF FLUVANNA IN THE VACo/VML VIRGINIA INVESTMENT POOL TRUST FUND FOR THE PURPOSE OF INVESTING IN ACCORDANCE WITH SECTION 2.2-4501 OF THE VIRGINIA CODE. (Ord. 5-20-15)

AN ORDINANCE TO AUTHORIZE PARTICIPATION BY THE COUNTY OF FLUVANNA IN THE VACo/VML VIRGINIA INVESTMENT POOL TRUST FUND FOR THE PURPOSE OF INVESTING IN ACCORDANCE WITH SECTION 2.2-4501 OF THE VIRGINIA CODE.

WHEREAS, Va. Code § 15.2-1500 provides, in part, that every locality shall provide for all the governmental functions of the locality, including without limitation, the organization of all departments, offices, boards, commissions and agencies of government, and the organizational structure thereof, which are necessary to carry out the functions of government; and

WHEREAS, the Investment of Public Funds Act (Va. Code §§ 2.2-4500 through 2.2-4519) details the eligible categories of securities and investments in which municipal corporations, other political subdivisions and other public bodies are authorized to invest funds other than sinking funds, belonging to them or within their control; and

WHEREAS, Va. Code § 15.2-1300 provides that any power, privilege or authority exercised by any political subdivision of the Commonwealth of Virginia may be exercised jointly with any other political subdivision having a similar power, privilege or authority, by agreements with one another for joint action in accordance with the provisions of that Code section; and

WHEREAS, the City of Chesapeake, Virginia and the City of Roanoke, Virginia have jointly established and participate in the VACo/VML Virginia Investment Pool (the "Trust Fund") for each such city;

WHEREAS, the Board of Supervisors considered the recommendation of the County's Finance Board, the County's Treasurer, staff and the public, if any, at the public hearing;

WHEREAS, it appearing to the Board of Supervisors of the County of Fluvanna, a political subdivision of the Commonwealth of Virginia, that it is otherwise in the best interests of the County of Fluvanna to become a participating locality in the Trust Fund; and

WHEREAS, Linda Lenherer, the Treasurer of the County of Fluvanna, has the authority and responsibility under Virginia law to determine the manner in which public funds other than sinking funds under her control will be invested;

NOW, THEREFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF FLUVANNA HEREBY ORDAINS:

§ 1 That the Board of Supervisors of the County of Fluvanna hereby establishes a trust pursuant to Section 2.2-4501 of the Virginia Code for the purpose of investing funds, other than sinking funds, determined to derive the most benefit from this investment strategy, in investments authorized under the Investment of Public Funds Act, jointly with other participating political subdivisions and public bodies in the Trust Fund. A copy of the VACo/VML Virginia Investment Pool Trust Fund Agreement (the "Agreement") is attached and incorporated in this ordinance as Exhibit A.

§ 2 That the Board of Supervisors of the County of Fluvanna agrees to become a "Participating Political Subdivision" in the Trust Fund, as further defined in the Agreement.

§ 3 That the Board of Supervisors of the County of Fluvanna does hereby designate the Treasurer of the County of Fluvanna to serve as the trustee of the County of Fluvanna with respect to the Trust Fund, and to determine what funds under the Treasurer's control shall be invested in the Trust Fund.

§ 4 That the Board of Supervisors of the County of Fluvanna hereby authorize the Treasurer to execute and deliver the Trust Joinder Agreement for Participating Political Subdivisions under VACo/VML Virginia Investment Pool ("Trust Joinder Agreement"), a copy of which is attached and incorporated by reference in this ordinance as Exhibit B.

§ 5 This ordinance shall become effective upon its adoption.

Exhibits: VACo/VML Virginia Investment Pool Trust Fund Agreement ("Exhibit A") Trust Joinder Agreement ("Exhibit B")

VIRGINIA INVESTMENT POOL
TRUST FUND AGREEMENT

THIS AGREEMENT (the "Agreement"), is made by and among the Participating Political Subdivisions that execute Trust Joinder Agreements to participate in the Virginia Investment Pool Trust Fund, their duly elected Treasurers or other Chief Investment Officers empowered by law to invest the public funds of such Participating Political Subdivisions, and the individuals named as Trustees pursuant to Section 106 hereof and their successors (the "Board of Trustees"). The Participating Political Subdivisions and their Treasurers or Chief Investment Officers hereby establish with the Board of Trustees, and the Board of Trustees hereby accepts, under the terms of this Agreement, a trust for the purpose of investing moneys belonging to or within the control of the respective Participating Political Subdivisions as allowed by law.

WITNESSETH:

WHEREAS, Section 15.2-1500 of the Virginia Code provides, in part, that every locality shall provide for all the governmental functions of the locality, including, without limitation, the organization of all departments, offices, boards, commissions and agencies of government, and the organizational structure thereof, which are necessary to carry out the functions of government; and

WHEREAS, Section 2.2-4501 of the Virginia Code provides that all municipal corporations and other political subdivisions may invest any and all moneys belonging to them or within their control, other than sinking funds, in certain authorized investments; and

WHEREAS, Section 15.2-1300 of the Virginia Code provides that any power, privilege or authority exercised or capable of exercise by any political subdivision of the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, privilege or authority pursuant to agreements with one another for joint action pursuant to the provisions of that section; and

WHEREAS, the City of Chesapeake and the City of Roanoke have adopted ordinances approving participation in the Virginia Investment Pool for each such locality; and

WHEREAS, the Participating Political Subdivisions and their Treasurers or Chief Investment Officers and the Board of Trustees of the Virginia Investment Pool Trust Fund (herein referred to as the "Trust Fund") hereby establish a trust for the purpose of investing monies belonging to or within the control of the Participating Political Subdivisions, respectively, other than sinking funds, in investments authorized under Section 2.2-4501 of the Virginia Code; and

WHEREAS, the parties intend that the Trust Fund hereby established shall constitute a tax-exempt governmental trust under Section 115 of the Internal Revenue Code of 1986, as amended;

NOW, THEREFORE, the parties hereto mutually agree as follows:

PART 1- GENERAL PROVISIONS

Section 100. APPLICATION.

The provisions of Part 1 are general administrative provisions applicable to each Part of this Agreement and provisions applicable to the Board of Trustees.

Section 101. DEFINITIONS.

The following definitions shall apply to this Agreement, unless the context of the term indicates otherwise, and shall govern the interpretation of this Agreement:

A. Administrator. The term "Administrator" means the Virginia Local Government Finance Corporation (d/b/a "VML/VACo Finance") or any successor designated by the Board of Trustees to administer the Trust Fund.

B. Beneficial Interest. The right of a party to some distribution or benefit from the Trust Fund; a vested interest in the Trust Fund's assets.

C. Code. The term "Code" means the Internal Revenue Code of 1986, as amended, and, as relevant in context, the Internal Revenue Code of 1954, as amended.

D. Custodian. The term "Custodian" means the banks, mutual funds, insurance companies or other qualified entities selected by the Board of Trustees, under a separate written document with each, to accept contributions from Participating Political Subdivisions and to hold the assets of the Trust Fund.

E. Effective Date. The term "Effective Date" means the date coinciding with the last to occur of each of the following events: (i) passage of an ordinance by each of the City of Chesapeake and the City of Roanoke approving such governmental entities as Participating Political Subdivisions in the Trust Fund; (ii) execution by the authorized officer of each such governmental entity of the Trust Joinder Agreement; (iii) execution of this Agreement by all members of the initial Board of Trustees and the Administrator; and (iv) any contribution of cash to the Trust by a Participating Political Subdivision.

F. Participating Political Subdivision. The term "Participating Political Subdivision" means any county, city, town, or other political subdivision within the State whose governing body has passed an ordinance or resolution to participate in the Trust Fund, and whose Treasurer or Chief Investment Officer, serving as trustee for such Participating Political Subdivision, executes a Trust Joinder Agreement, as provided in Section 301 hereof.

G. Treasurer. The term "Treasurer" means an officer described in Article VII, Section 4, of the Constitution of Virginia who shall serve as the trustee and representative of its Participating Political Subdivision for purposes of this Agreement. Treasurers shall vote the beneficial interest of such Participating Political Subdivision in the Trust Fund, as prescribed in Part 3 of this Agreement. Nothing in this agreement shall be construed to limit the discretion of a

duly elected Treasurer to invest the public funds of his or her political subdivision in any manner otherwise permitted by law, nor shall the decision of any local governing body to become a Participating Political Subdivision under this agreement compel any duly elected Treasurer having responsibility for such investments of public funds to invest any the locality's funds in the Trust Fund created under this Agreement.

H. Chief Investment Officer. The term "Chief Investment Officer" means an officer designated by the governing body of a Participating Political Subdivision to invest public funds on behalf of the political subdivision and to serve as the trustee of such Participating Political Subdivision with respect to the Trust Fund, but only in a political subdivision that does not have an elected treasurer empowered by law to perform those functions. The term "Chief Investment Officer" may include certain individuals holding the title of "treasurer" for the political subdivision but who are not included in the definition in Subsection F. Each Treasurer or Chief Investment Officer, as the case may be, shall be the trustee and representative of his or her Participating Political Subdivision for purposes of this Agreement and shall vote the beneficial interest of such Participating Political Subdivision in the Trust Fund, as prescribed in Part 3 of this Agreement.

I. Fiscal Year. The first fiscal year of the Trust Fund shall be a short fiscal year beginning on the Effective Date of this Agreement and ending on June 30, 2014. Each subsequent fiscal year of the Trust Fund shall begin on the first day of July and end on the thirtieth day of June.

J. Investment Policy. The term "Investment Policy" means the Virginia Investment Pool Trust Fund Investment Policy, as established by the Board of Trustees, as amended from time to time.

K. Prudent Person. A person who conducts himself faithfully, with intelligence, and exercising sound discretion in the management of his affairs, not in regard to speculation, but in regard to the permanent disposition of his funds, considering the probable income, as well as the probable safety of capital to be invested.

L. State. The term "State" means the Commonwealth of Virginia.

M. Trust Fund. The term "Trust Fund" means the Virginia Investment Pool Trust Fund, comprised of all of the assets set aside hereunder.

N. Trust Joinder Agreement. The term "Trust Joinder Agreement" means the agreement, in the form attached hereto as Exhibit A, pursuant to which the Participating Political Subdivision joins in the Trust Fund, with the Treasurer or Chief Investment Officer, as the case may be, serving as the trustee of such Participating Political Subdivision, and agrees to be bound by the terms and conditions of the Virginia Investment Pool Trust Fund Agreement, as provided in Section 301 hereof.

O. Trustees. The term "Trustees" means the individuals who serve on the Board of Trustees of the Trust Fund pursuant to Section 106 hereof and their successors.

P. Virginia Code. The term "Virginia Code" means the laws embraced in the titles, chapters, articles and sections designated and cited as the "Code of Virginia," under the laws of the State.

Section 102. GENERAL DUTIES AND MEETINGS OF THE BOARD OF TRUSTEES.

A. General Duties. The Board of Trustees and each Investment Manager appointed pursuant to this Agreement shall discharge their respective duties under this Agreement solely as follows: (i) except as otherwise provided by any applicable provision of any statute, regulation, ordinance, or resolution, for the exclusive purpose of fulfilling the investment objectives of the Participating Political Subdivisions and defraying the reasonable expenses of administering the Trust Fund; (ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and (iii) by diversifying the investments of the Trust Fund so as to minimize the risk of large losses unless under the circumstances, it is clearly prudent not to do so. However, the duties and obligations of the Board of Trustees and each Investment Manager, respectively, as such, shall be limited to those expressly imposed upon them, respectively, by this Agreement. The Board of Trustees shall administer the Trust Fund in compliance with Chapter 45 of the Virginia Code (2.2-4500 *et. seq.)*

1. Authority of the Trustees. The Trustees shall have the power and authority and shall be charged with the duty of general supervision and operation of the Trust Fund, and shall conduct the business and activities of the Trust Fund in accordance with this Agreement, the Trust Joinder Agreements, rules and regulations adopted by the Board of Trustees and applicable law.

2. Trustees' Liabilities. No Trustee shall be liable for any action taken pursuant to this Agreement in good faith or for an omission except bad faith or gross negligence, or for any act of omission or commission by any other Trustee. The Trustees are hereby authorized and empowered to obtain, at the expense of the Trust Fund, liability insurance fully protecting the respective Trustees, the Administrator, and the Trust Fund from any loss or expense incurred, including reasonable attorney's fees, for all acts of the Trustees except bad faith or gross negligence. The Trust Fund shall save, hold harmless and indemnify the Trustees and Administrator from any loss, damage or expense incurred by said persons or entities while acting in their official capacity excepting bad faith or gross negligence.

3. Standard of Review. In evaluating the performance of the Trustees, compliance by the Trustees with this Agreement must be determined in light of the facts and circumstances existing at the time of the Trustees' decision or action and not by hindsight.

4. Limitations on Liabilities. The Trustees' responsibilities and liabilities shall be subject to the following limitations:

(a) The Trustees shall have no duties other than those expressly set forth in this Agreement and those imposed on the Trustees by applicable laws.

(b) The Trustees shall be responsible only for money actually received by the Trustees, and then to the extent described in this Agreement.

(c) The Trustees shall not be responsible for the correctness of any determination of payments or disbursements from the Trust Fund.

(d) The Trustees shall have no liability for the acts or omissions of any predecessor or successor in office.

(e) The Trustees shall have no liability for (i) the acts or omissions of any Investment Advisor or Advisors, or Investment Manager or Managers; (ii) the acts or omissions of any insurance company; (iii) the acts or omissions of any mutual fund; or (iv) following directions that are given to the Trustees by the Treasurer or Chief Investment Officer in accordance with this Agreement.

B. Reliance on Counsel. The Board of Trustees may employ, retain or consult with legal counsel, who may be counsel for the Administrator, concerning any questions which may arise with reference to the duties and powers or with reference to any other matter pertaining to this Agreement; and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustees in good faith in accordance with the opinion of such counsel, and the Trustees shall not be individually or collectively liable therefor.

C. Meetings. The Board of Trustees shall meet at least three times per year, and more frequently if called, at the principal office of the Trust Fund or at such other location as may be acceptable to a majority of the Trustees. One such meeting of the Board of Trustees shall be held as soon as practicable after the adjournment of the annual meeting of Treasurers or Chief Investment Officers of Participating Political Subdivisions at such time and place as the Board of Trustees may designate. Other meetings of the Board of Trustees shall be held at places within the Commonwealth of Virginia and at times fixed by resolution of the Board of Trustees, or upon call of the Chairperson of the Board or a majority of the Trustees, on not less than ten (10) days' advance notice. Such notice shall be directed to the Trustees by mail to the respective addresses of the Trustees as recorded in the office of the Trust Fund. The notice of any special meetings of the Board of Trustees shall state the purpose of the meeting.

A majority of the number of Trustees elected and serving at the time of any meeting shall constitute a quorum for the transaction of business. Each Trustee shall be entitled to cast a single vote of equal weight on each question coming before the Board. Proxy voting is not allowed. The act of a majority of Trustees present at a meeting at which a quorum is present, shall be the act of the Board of Trustees unless otherwise specified in this agreement. Less than a quorum may adjourn any meeting.

Robert's Rules of Order Newly Revised (11th edition) shall be the parliamentary authority for the Board of Trustees.

D. Office of the Trust Fund. The Administrator shall establish, maintain and provide adequate funding for an office for the administration of the Trust Fund. The address of such office is to be made known to the parties interested in or participating in the Trust Fund and to the appropriate governmental agencies. The books and records pertaining to the Trust Fund and its administration shall be kept and maintained at the office of the Trust Fund.

E. Execution of Documents. A certificate signed by a person designated by the Board of Trustees to serve as Secretary shall be evidence of the action of the Trustees, and any such certificate or other instrument so signed shall be kept and maintained at the office of the Trust Fund and may be relied upon as an action of the Trustees.

F. Appointment and Removal of Administrator. The Virginia Local Government Finance Corporation is hereby initially designated the Administrator pursuant to an administrative services agreement between the parties. The Board of Trustees shall provide compensation for the Administrator to administer the affairs of the Trust Fund. Any three (3) Trustees may call for a vote of the Board of Trustees to remove the Administrator by providing no less than 30 days' notice to the other Trustees and to the Administrator. A vote will be scheduled at the next meeting of the Board of Trustees, for which sufficient notice can be given, at which meeting the Administrator may be removed on a majority vote of the Trustees then serving. Upon removal of the Administrator, the Board of Trustees shall designate a successor Administrator.

G. Duty to Furnish Information. The Treasurers or Chief Investment Officers and the Board of Trustees shall furnish to each other any document, report, return, statement or other information that the other reasonably deems necessary to perform duties imposed under this Agreement or otherwise imposed by law.

H. Reliance on Communications. The Board of Trustees may rely upon a certification of a Treasurer or Chief Investment Officer with respect to any instruction, direction, or approval of its Participating Political Subdivision and may continue to rely upon such certification until a subsequent certification is filed with the Trustees. The Trustees shall have no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized by the Treasurer or Chief Investment Officer and its Participating Political Subdivision.

Section 103. ADMINISTRATIVE POWERS AND DUTIES.

A. Trustees. The Board of Trustees, in addition to all powers and authorities under common law or statutory authority, including Chapter 45 of Title 2.2 of the Virginia Code (§§ 2.2-4500 *et seq.)*, and subject to the requirements and limitations imposed by the common law or statutory authority, including Chapter 45 of Title 2.2 of the Virginia Code (§§ 2.2-4500 *et seq.)*, shall have and in its sole and absolute discretion may exercise from time to time and at any time, either through its own actions, delegation to the Administrator, or through a Custodian selected by the Board of Trustees, the following administrative powers and authority with respect to the Trust Fund:

1. To receive for the purposes hereof all cash contributions paid to it by or at the direction of the Participating Political Subdivisions or their Treasurers or Chief Investment Officers.

2. To hold, invest, reinvest, manage, administer and distribute cash balances as shall be transferred to the Trustees from time to time by the Participating Political Subdivisions or their Treasurers or Chief Investment Officers and the increments, proceeds, earnings and income thereof for the exclusive benefit of Participating Political Subdivisions.

3. To continue to hold any property of the Trust Fund that becomes otherwise unsuitable for investment for as long as the Board of Trustees in its discretion deems desirable; to reserve from investment and keep unproductive of income, without liability for interest, cash temporarily awaiting investment and such cash as it deems advisable, or as the Administrator from time to time may specify, in order to meet the administrative expenses of the Trust Fund or anticipated distributions therefrom.

4. To hold property of the Trust Fund in the name of the Trust Fund, or in the name of a nominee or nominees (e.g., registered agents), without disclosure of the trust, or in bearer form so that it will pass by delivery, but no such holding shall relieve the Board of Trustees of its responsibility for the safe custody and disposition of the Trust Fund in accordance with the provisions of this Agreement; the books and records of the Board of Trustees shall show at all times that such property is part of the Trust Fund and the Board of Trustees shall be absolutely liable for any loss occasioned by the acts of its nominee or nominees with respect to securities registered in the name of the nominee or nominees.

4.1[1] To employ in the management of the Trust Fund suitable agents, without liability for any loss occasioned by any such agents, so long as they are selected with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

5. To make, execute and deliver, as trustee, any deeds, conveyances, leases, mortgages, contracts, waivers or other instruments in writing that it may deem necessary or desirable in the exercise of its powers under this Agreement.

6. To do all other acts that it may deem necessary or proper to carry out any of the powers set forth in this Section 103 or Section 202, to administer or carry out the purposes of the Trust Fund, or as otherwise is in the best interests of the Trust Fund; provided, however, the Board of Trustees need not take any action unless in its opinion there are sufficient Trust Fund assets available for the expense thereof.

7. To adopt rules and regulations governing the Tmstees' operations and procedures.

8. To contract with municipal corporations, political subdivisions and other public entities of State or of local government and private entities for the provision of Tmst Fund services and for the use or furnishing of services and facilities necessary, useful, or incident to providing Trust Fund services.

[1] Editor’s revision to number 4.1, originally number 4 was repeated.

9. To advise the Administrator on the establishment of expectations with regard to the provision of administrative services and the establishment of appropriate fee levels.

10. To establish and charge fees for participation in the Trust Fund and for additional administrative services provided to a Participating Political Subdivision in addition to any fees charged by other administrative service providers.

11. To collect and disburse all funds due or payable from the Trust Fund, under the terms of this Agreement.

12. To provide for and promulgate all rules, regulations, and forms deemed necessary or desirable in contracting with Treasurers and Chief Investment Officers and their Participating Political Subdivisions, in fulfilling the Trustees' purposes and in maintaining proper records and accounts.

13. To employ insurance companies, banks, trust companies, investment brokers, investment advisors, or others as agents for the receipt and disbursement of funds held in trust for Participating Political Subdivisions.

14. To determine, consistent with the applicable law and the procedures under the Trust Fund, all questions of law or fact that may arise as to investments and the rights of any Participating Political Subdivision to assets of the Trust Fund.

15. Subject to and consistent with the Code and the Virginia Code, to construe and interpret the Trust Agreement and to correct any defect, supply any omissions, or reconcile any inconsistency in the Agreement.

16. To contract for, purchase or otherwise procure insurance and investment products.

B. Administrator. Pursuant to an administrative services agreement between the Board of Trustees and the Administrator, the Administrator shall have the power and authority to implement policy and procedural matters as directed by the Board of Trustees as they relate to the ongoing operation and supervision of the Trust Fund and the provisions of this Agreement and applicable law. The Administrator shall immediately make application for a fidelity bond, to any company designated by the Board of Trustees, in such amount as may be specified by the Board of Trustees. The premium on such bond shall be paid from the Trust Fund, which bond shall be continued in force in such amount as the Board of Trustees may from time to time require. If the Administrator's bond is refused, or is ever cancelled, the Administrator may be removed on a majority vote of the Trustees then serving.

Section 104. TAXES. EXPENSES AND COMPENSATION OF TRUSTEES.

A. Taxes. The Administrator, without direction from the Board of Trustees, shall pay out of the Trust Fund all taxes, if any, properly imposed or levied with respect to the Trust Fund, or any part thereof, under applicable law, and, in its discretion, may contest the validity or amount of any tax, assessment, claim or demand respecting the Trust Fund or any part thereof.

B. Expenses and Compensation. The Board of Trustees is authorized to set aside from Participating Political Subdivision contributions received and the investment income earned thereon a reasonable sum for the operating expenses and administrative expenses of the Trust Fund including but not limited to, the employment of such administrative, legal, accounting, and other expert and clerical assistance, and the purchase or lease of such materials, supplies and equipment as the Board of Trustees, in its discretion, may deem necessary or appropriate in the performance of its duties, or the duties of the agents or employees of the Trust Fund or the Trustees.

All remaining funds coming into the Trust shall be set aside, managed and used only for the benefit of Participating Political Subdivisions.

Section 105. COMMUNICATIONS.

Until notice is given to the contrary, communication to the Trustees or to the Administrator shall be sent to them at the Trust Fund's office in care of the Administrator. The Administrator's address is VML/VACo Finance at 919 E. Main Street, Suite 1100 Richmond, VA 23219.

Section 106. APPOINTMENT. RESIGNATION OR REMOVAL OF TRUSTEES.

A. Appointment of Trustees and Length of Appointment. The number of Trustees serving on the Board of Trustees shall be fourteen (14).

1. The initial group of Trustees to establish the Trust Fund will be comprised as follows: (a) the Treasurer of the City of Chesapeake, (b) the Treasurer of the City of Roanoke, (c) five (5) individuals designated by the Board of Directors of the Virginia Association of Counties ("VACo"), (d) five (5) individuals designated by the Board of Directors of the Virginia Municipal League ("VML"), (e) the Executive Director of VACo, who shall serve as a non-voting *ex officio* trustee, and (f) the Executive Director of VML, who shall serve as a non-voting *ex officio* trustee. VACo and VML shall give priority for appointment to Treasurers and Chief Investment Officers. The appointees of VACo and VML shall serve until successor trustees are elected at the first annual meeting of the Treasurers and Chief Investment Officers.

2. With the first annual meeting of the Treasurers and Chief Investment Officers, the Board of Trustees shall be divided into three classes, A, B, and C. Class A will include the Treasurers of the two founding Participating Political Subdivisions, who shall continue to serve for two 3-year terms until successor trustees are elected at the annual meeting of the Treasurers and Chief Investment Officers to be held in Fiscal Year 2021 (the "Fiscal Year 2021 annual meeting"), and two trustees to be elected to serve until successor trustees are elected at the annual meeting to be held in Fiscal Year 2018. Class B, will serve for a transitional period until successor trustees are elected at the annual meeting to be held in Fiscal Year 2017. Class C will serve for a transitional period until successor trustees are elected at the annual meeting to be held in Fiscal Year 2016. One of the Class B seats and one of the Class C seats will be designated to be filled by a Treasurer or Chief Investment Officer of a locality with a population of 75,000 or less, according to the latest decennial census. Individuals who do not meet this requirement may not be nominated for a seat so designated.

3. On or after July 1, 2014, the Trustees shall solicit nominations from the Treasurers and Chief Investment Officers of Participating Political Subdivisions for two Class A, four Class B, and four Class C Trusteeships, and such nominees, along with any nominations from the floor, shall constitute the candidates for the election of Trustees by vote at the Fiscal Year 2015 annual meeting of the Treasurers and Chief Investment Officers as provided in Section 307. In the event that there are not a sufficient number of eligible nominees from among Participating Political Subdivisions, nominations will be provided by the Executive Directors of the Virginia Association of Counties and the Virginia Municipal League. VACo and VML shall give priority for nomination, firstly, to Treasurers and Chief Investment Officers of Participating Political Subdivisions and, secondly, to treasurers and chief investment officers of non-participating political subdivisions.

4. On or after July 1, 2015, the Trustees shall solicit nominations from Treasurers and Chief Investment Officers of Participating Political Subdivisions for Class C Trusteeships, and such nominees, along with any nominations from the floor, shall constitute the candidates for the election of Trustee by vote at the Fiscal Year 2016 annual meeting of the Treasurers and Chief Operating Officers as provided in Section 307. In the event that there are not a sufficient number of eligible nominees from among Participating Political Subdivisions, nominations will be provided by the Executive Directors of the Virginia Association of Counties and the Virginia Municipal League. VACo and VML shall give priority for nomination, firstly, to Treasurers and Chief Investment Officers of Participating Political Subdivisions and, secondly, to treasurers and chief investment officers of non-participating political subdivisions.

5. At each annual meeting of Treasurers and Chief Investment Officers following the transitional period, the successors to the class of Trustees whose terms shall then expire shall be identified as being of the same class as the trustees they succeed and elected to hold office for a term expiring at the third succeeding annual meeting of Treasurers and Chief Investment Officers. Trustees shall hold their offices until the next annual meeting of Treasurers and Chief Investment Officers for such Trustee's respective Class and until their successors are elected and qualify.

6. At each annual meeting of the Treasurers and Chief Investment Officers, the incumbent Trustees will present all nominations received for each class of Trustees (A, B, and/or C) for which an election is to be held and entertain nominations from the floor. If a Treasurer or Chief Investment Officer does not designate a particular class for its nominee(s), such names will be included on the lists of eligible nominees for each class for which an election is to be held unless the individual named is elected to another seat.

7. No individual Trustee may be elected or continue to serve as a Trustee after becoming an owner, officer or employee of the Administrator, an Investment Advisor, an Investment Manager or a Custodian. Beginning with the FY 2017 annual meeting, no Trustee may be elected or continue to serve as a Trustee unless he or she is a Treasurer or Chief Investment Officer of a Participating Political Subdivision or has received a delegation of authority according to the requirements of Section 106(A)(8). In the event that there are not a sufficient number of eligible nominees as of the date of the annual meeting, the position will be declared vacant.

8. A Treasurer or Chief Investment Officer may delegate to a subordinate officer who holds investment responsibilities the authority to seek election to and serve as a member of

the Board of Trustees as a representative of the Participating Political Subdivision. Such officers will be entitled to the same rights and responsibilities as Treasurers and Chief Investment Officers with respect to seeking election to and serving on the Board of Trustees. The delegation of authority and any subsequent rescission of a delegation of authority must be delivered in writing to the Secretary of the Board of Trustees. If a delegation of authority is rescinded, the affected position on the Board of Trustees will be considered vacated. All references to "Treasurers" and "Chief Investment Officers" in Section 106 will pertain equally to such individuals delegated authority under this provision.

9. Each Trustee and each successor Trustee shall acknowledge and consent to his or her election as a Trustee at the annual meeting at which he/she is elected or, if subsequent to the annual meeting, by giving written notice of acceptance of such election to the Chairperson of the Trustees.

B. Resignation of a Trustee.

1. A Trustee may resign from all duties and responsibilities under this Agreement by giving written notice to the Chairperson of the Trustees. The Chairperson may resign from all duties and responsibilities under this Agreement by giving written notice to all of the other Trustees. Such notice shall state the date such resignation shall take effect and such resignation shall take effect on such date but not later than sixty (60) days after the date such written notice is given.

2. Any Trustee, upon leaving office, shall forthwith turn over and deliver to the Administrator at the principal office of the Trust Fund any and all records, books, documents or other property in his or her possession or under his or her control which belong to the Trust Fund.

C. Removal of a Trustee. Each Trustee, unless due to resignation, death, incapacity, removal, or conviction of a felony or any offense for which registration is required as defined in Virginia Code § 9.1-902, shall serve and shall continue to serve as Trustee hereunder, subject to the provisions of this Agreement.

A Trustee shall relinquish his or her office or may be removed by a majority vote of the Trustees then serving or *ipso facto* when the Employer which he/she represents is no longer a Participating Political Subdivision in the Trust Fund. Notice of removal of a Trustee shall be furnished to the other Trustees by the Chairperson of the Trustees and shall set forth the effective date of such removal. Notice of removal of the Chairperson shall be furnished to the other Trustees by the Administrator and shall set forth the effective date of such removal.

D. Appointment of a Successor Trustee. Except as otherwise provided in part A.l of this Section with respect to the initial term of Class A Trustees, in the event a Trustee shall die, resign, become incapacitated, be removed from office, or convicted of a felony or any offense for which registration is required as defined in Virginia Code § 9.1-902, a successor Trustee shall be elected forthwith by the affirmative vote of the majority of the remaining Trustees though less than a quorum of the Board of Trustees. The notice of the election of a successor Trustee shall be furnished to the other Trustees by the Chairperson. In case of the removal, death, resignation, etc. of the Chairperson, notice of the election of a successor Trustee, and the new Chairperson, shall be furnished to the other Trustees by the Administrator. Nominations for

interim replacement of vacant positions may be made by any member of the Board of Trustees. The term of office of any Trustee so elected shall expire at the next Annual Meeting of Treasurers and Chief Investment Officers at which Trustees are elected. The successor Trustee shall be elected to complete the term for the Class to which such Trustee has been assigned. In the event that a vacancy occurs in the office of either the Treasurer of Chesapeake or the Treasurer of Roanoke prior to the FY 2021 annual meeting, the newly assigned Treasurer of the founding Participating Political Subdivision will automatically assume the vacant position.

E. Trustees' Rights. In case of the death, resignation or removal of any one or more of the Trustees, the remaining Trustees shall have the powers, rights, estates and interests of this Agreement as Trustees and shall be charged with the duties of this Agreement; provided in such cases, no action may be taken unless it is concurred in by a majority of the remaining Trustees. However, if such vacancies leave less than a quorum of Trustees, the remaining trustees may only act to appoint successors. Only after a quorum has been established may the trustees take the other actions established in this subsection.

Section 107. BONDING.

All Trustees shall immediately make application for a fidelity bond, to any company designated by the Board of Trustees, in such amount as may be specified by the Board of Trustees. Premiums on such bonds shall be paid from the Trust Fund, which bonds shall be continued in force in such amount as the Board of Trustees may from time to time require. If a Trustee's bond is refused, or is ever cancelled, except with the Board of Trustees' approval, such Trustee may be removed from office by majority vote of the Trustees then serving.

PART 2 - PROVISIONS APPLICABLE TO INVESTMENTS

Section 200. APPLICATION.

The provisions of Part 2 apply to the investments of the Trust Fund.

Section 201. ADMINISTRATION OF TRUST.

A. General. All such assets shall be held by the Trustees in the Trust Fund.

B. Contributions. The Board of Trustees hereby delegates to the Custodian the responsibility for accepting cash contributions to the Trust Fund, and the Custodian shall have the responsibility for accepting cash contributions by Participating Political Subdivisions. Assets held in the Trust Fund shall be dedicated to the benefit of each Participating Political Subdivision, respectively, or to defraying reasonable expenses of the Trust Fund. All contributions by a Participating Political Subdivision shall be transferred to the Trust Fund to be held, managed, invested and distributed as part of the Trust Fund by the Trustees in accordance with the provisions of this Agreement and applicable law.

C. Applicable Laws and Regulations, The Board of Trustees shall be authorized to take the steps it deems necessary or appropriate to comply with any laws or regulations applicable to the Trust Fund.

D. Accumulated Share. No Participating Political Subdivision shall have any right, title or interest in or to any specific assets of the Trust Fund, but shall have an undivided beneficial interest in the Trust Fund; however, there shall be a specific accounting of assets allocable to each Participating Political Subdivision.

Section 202. MANAGEMENT OF INVESTMENTS OF THE TRUST FUND.

A. Authority of Trustees. Except as set forth in subsections C, D, F, or G of this Section, and except as otherwise provided by law, the Board of Trustees shall have exclusive authority and discretion to manage and control the assets of the Trust Fund held by them pursuant to the guidelines established by the Board of Trustees in the Investment Policy.

B. Investment Policy. The Board of Trustees, as its primary responsibility under this Agreement, shall develop a written Investment Policy establishing guidelines applicable to the investment of the assets of the Trust Fund, and from time to time shall modify such Investment Policy, in light of the short and long-term financial interests of the Participating Political Subdivisions and the Trust Fund. The Investment Policy shall serve as the description of the funding policy and method for the Trust Fund.

C. Investment Advisor. From time to time, the Administrator may, pursuant to approval of the Board of Trustees, appoint one (1) or more independent Investment Advisors ("Investment Advisor"), pursuant to a written investment advisory agreement with each, describing the powers and duties of the Investment Advisor with regard to the management of all or any portion of any investment or trading account of the Trust Fund. The Investment Advisor shall review, a minimum of every calendar quarter, the suitability of the Trust Fund's investments, the performance of the Investment Managers and their consistency with the objectives of the Investment Policy with assets in the portion of the Trust Fund for which the Investment Manager has responsibility for management, acquisition or disposition.

If the Administrator contracted with a lead Investment Advisor prior to the establishment of this Agreement, the Board of Trustees may ratify such contract. The lead Investment Advisor will serve at the pleasure of the Board of Trustees and will be compensated for its recurring, usual and customary services.

Subject to the approval of the Board of Trustees, the Investment Advisor shall recommend an asset allocation for the Trust Fund that is consistent with the objectives of the Investment Policy. If the Board of Trustees shall approve a separate Investment Policy with respect to assets in a segregated portion of the Trust Fund, the Investment Advisor shall recommend an asset allocation for such segregated portion of the Trust Fund that is consistent with the objectives of such Investment Policy. At least annually, the Investment Advisor shall review the Investment Policy and asset allocation with the Board of Trustees. The Investment Advisor shall also advise the Board of Trustees with regard to investing in a manner that is consistent with applicable law, based on majority vote of the Board of Trustees, and in consideration of the expected distribution requirements of the Plans.

D. Investment Managers. The Board of Trustees, from time to time, may appoint one (1) or more independent Investment Managers ("Investment Manager"), pursuant to a written investment management agreement with each, describing the powers and duties of the Investment Manager to invest and manage all or a portion of the Trust Fund. The Investment

Manager shall have the power to direct the management, acquisition or disposition of that portion of the Trust Fund for which the Investment Manager is responsible.

The Board of Trustees shall be responsible for ascertaining that each Investment Manager, while acting in that capacity, satisfies the following requirements:

1. The Investment Manager is either (i) registered as an investment advisor under the Investment Advisors Act of 1940, as amended; (ii) a bank as defined in that Act; or (iii) an insurance company qualified to perform the services described herein under the laws of more than one state; and

2. The Investment Manager has acknowledged in writing to the Board of Trustees that it is a fiduciary with respect to the assets in the portion of the Trust Fund for which the Investment Manager has responsibility for management, acquisition or disposition.

If the Administrator contracted with a lead Investment Manager prior to the establishment of this Agreement, the Board of Trustees may ratify such contract. The lead Investment Manager will serve at the pleasure of the Board of Trustees and will be compensated for its recurring, usual and customary services.

E. Custodian. The Custodian is responsible for holding all funds and securities in a separate account in the name of the Trust, collecting all income and principal due the Trust from securities held, accepting contributions and distributing redemptions, and properly accepting for delivery and/or delivering securities in accordance with the contract between the Trust and each Custodian. It will maintain a record of the shares of beneficial interest owned by Participants and will provide fund accounting services for the Trust, to include calculation of the net asset value of the Portfolio on a semi-monthly basis. The Custodian shall provide monthly statements and performance reports to each participant and at the request of the Board of Trustees certify the value of any property of the Trust Fund managed by the Investment Manager(s). The Trustees shall be entitled to rely conclusively upon such valuation for all purposes under the Trust Fund.

F- Absence of Trustees' Responsibility for Investment Advisor and Manager. Except to the extent provided in paragraph A of Section 102 above, the Board of Trustees, collectively and individually, shall not be liable for any act or omission of any Investment Manager and shall not be under any obligation to invest or otherwise manage the assets of the Trust Fund that are subject to the management of any Investment Manager. Without limiting the generality of the foregoing, the Board of Trustees shall be under no duty at any time to make any recommendation with respect to disposing of or continuing to retain any such asset. Furthermore, the Board of Trustees, collectively and individually, shall not be liable by reason of its taking or refraining from taking the advice of the Investment Advisor any action pursuant to this Section, nor shall the Board of Trustees be liable by reason of its refraining from taking any action to remove or replace any Investment Manager on advice of the Investment Advisor; and the Trustees shall be under no duty to make any review of an asset acquired at the direction or order of an Investment Manager.

G.. Reporting. The Board of Trustees shall be responsible for and shall cause to be filed periodic audits, valuations, reports and disclosures of the Trust Fund as are required by law or

agreements. Notwithstanding anything herein to the contrary, the Board of Trustees shall cause the Trust Fund to be audited by a certified public accounting firm retained for this purpose at least once each year. The Board of Trustees may employ professional advisors to prepare such audits, valuations, reports and disclosures and the cost of such professional advisors shall be borne by the Trust Fund.

H. Commingling Assets. Except to the extent prohibited by applicable law, the Board of Trustees may commingle the assets of all Participating Political Subdivisions held by the Board of Trustees under this Agreement for investment purposes in the Trust Fund and shall hold the Trust Fund in trust and manage and administer the same in accordance with the terms and provisions of this Agreement. However, the assets of each Participating Political Subdivision shall be accounted for separately.

Section 203. ACCOUNTS.

The Trustees shall keep or cause to be kept at the expense of the Trust Fund accurate and detailed accounts of all its receipts, investments and disbursements under this Agreement, with the Trustees causing the Investment Advisor to account separately for each Investment Manager's portion of the Trust Fund. Section 204. DISBURSEMENTS FROM THE TRUST.

A. Trust Payments. The Board of Trustees hereby delegates to the Administrator the responsibility for making payments from the Trust Fund. In accordance with rules and regulations established by the Board of Trustees, the Administrator shall make payments from the Trust Fund as directed by the Treasurer or Chief Investment Officer of each Participating Political Subdivision. Payments shall be made in such manner, in such amounts and for such purposes as may be directed by the respective Treasurer or Chief Investment Officer. Payments from the Trust Fund shall be made by electronic transfer or check (or the check of an agent) for deposit to the order of the payee. Payments or other distributions hereunder may be mailed to the payee at the address last furnished to the Administrator. The Trustees shall not incur any liability on account of any payment or other distribution made by the Trust Fund in accordance with this Section. Such payment shall be in full satisfaction of claims hereunder against the Trustee, Administrator or Participating Political Subdivision.

B. Allocation of Expenses. The Trustees shall pay all expenses of the Trust Fund from the assets in the Trust Fund. All expenses of the Trust Fund, which are allocable to a particular investment option or account, may be allocated and charged to such investment option or account as determined by the Trustees. All expenses of the Trust Fund which are not allocable to a particular investment option or account shall be charged to each such investment option or account in the manner established by the Trustees.

Section 205. INVESTMENT OPTIONS.

The Trustees shall initially establish one (1) investment option within the Trust Fund pursuant to the Investment Policy, for communication to, and acceptance by, Treasurers and Chief Investment Officers. Following development of the initial "investment option" pursuant to the Investment Policy, the Board of Trustees may develop additional investment options, reflecting different risk/return objectives and corresponding asset mixes, for selection by Treasurers and Chief Investment Officers, as alternatives to the initial investment option. The

determination to add alternative investment options to the Investment Policy, and the development of each such investment option, are within the sole and absolute discretion of the Board of Trustees. The Trustees shall transfer to any deemed investment option developed hereunder such portion of the assets of the Trust Fund as appropriate. The Trustees shall manage, acquire or dispose of the assets in an investment option in accordance with the directions given by each Treasurer or Chief Investment Officer. All income received with respect to, and all proceeds received from, the disposition of property held in an investment option shall be credited to, and reinvested in, such investment option.

If multiple investment options are developed, from time to time, the Board of Trustees may eliminate an investment option, and the proceeds thereof shall be reinvested in the remaining investment option having the shortest duration of investments unless another investment option is selected in accordance with directions given by the Treasurer or Chief Investment Officer.

Notwithstanding anything in this agreement to the contrary, the Board of Trustees, in its sole discretion, may establish a separate, short-term investment option or fund, to facilitate contributions, disbursements or other short-term liquidity needs of the Trust or of particular Participating Political Subdivisions. Separate investment funds within the Trust Fund and varying percentages of investment in any such separate investment fund by the Participating Political Subdivisions, to the extent so determined by the Board of Trustees, are expressly permitted.

PART 3 - PROVISIONS APPLICABLE TO PARTICIPATING POLITICAL SUBDIVISIONS

Section 300. APPLICATION.

The provisions of Part 3 set forth the rights of Participating Political Subdivisions.

Section 301. PARTICIPATING POLITICAL SUBDIVISIONS.

A. Approval. The Board of Trustees or its designee shall receive applications from Treasurers and Chief Investment Officers of Participating Political Subdivisions for membership in the Trust Fund and shall approve or disapprove such applications for membership in accordance with the terms of this Agreement, the Trust Joinder Agreement, and the rules and regulations established by the Board of Trustees for admission of new Participating Political Subdivisions. The Board of Trustees shall have total discretion in determining whether to accept a new member. The Board of Trustees may delegate the authority for membership approval to the Administrator.

B. Execution of Trust Joinder Agreement. Once the governing body of a political subdivision has approved an ordinance or resolution to participate in the Trust Fund, its Treasurer or Chief Investment Officer, serving as trustee for such political subdivision, may execute a Trust Joinder Agreement in such form and content as prescribed by the Board of Trustees. By the execution of the Trust Joinder Agreement, the Participating Political Subdivision agrees to be bound by all the terms and provisions of this Agreement, the Trust Joinder Agreement, and any rules and regulations adopted by the Trustees under this Agreement.

The Treasurer or Chief Investment Officer of each Participating Political Subdivision, serving as such Participating Political Subdivision's trustee shall represent such Participating Political Subdivision's interest in all meetings, votes, and any other actions to be taken by a Participating Political Subdivision hereunder, provided that a Treasurer who elects not to invest public funds pursuant to the Joinder Agreement shall have no obligation to serve as a trustee for his or her locality.

C. Continuing as a Participating Political Subdivision. Application for participation in this Agreement, when approved in writing by the Board of Trustees or its designee, shall constitute a continuing contract for each succeeding fiscal year unless terminated by the Trustees or unless the Participating Political Subdivision resigns or withdraws from this Agreement by written notice sent by its duly authorized official. The Board of Trustees may terminate a Participating Political Subdivision's participation in this Agreement for any reason by vote of a three-fourths (3/4) majority of the voting members of the Board of Trustees present at a duly called meeting. If the participation of a Participating Political Subdivision is terminated, the Board of Trustees and the Administrator shall effect the withdrawal of such Participating Political Subdivision's beneficial interest in the Trust in accordance with its usual withdrawal policies.

Section 302. MEETINGS OF PARTICIPATING POLITICAL SUBDIVISIONS.

A. Places of Meetings. All meetings of the Treasurers and Chief Investment Officers shall be held at such place, within the Commonwealth of Virginia, as from time to time may be fixed by the Trustees.

B. Annual Meetings. The annual meeting of the Treasurers and Chief Investment Officers of Participating Political Subdivisions, for the election of Trustees and for the transaction of such other business as may come before the annual meeting, shall be held at such time on such business day between September 1st and October 31st as shall be designated by resolution of the Board of Trustees.

C. Special Meetings. Special meetings of the Treasurers or Chief Investment Officers for any purpose or purposes may be called at any time by the Chairperson of the Board of Trustees, by the Board of Trustees, or if Treasurers and Chief Investment Officers together holding at least twenty percent (20%) of all votes entitled to be cast on any issue proposed to be considered at the special meeting sign, date and deliver to the Trust Fund's Secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held. At a special meeting no business shall be transacted and no action shall be taken other than that stated in the notice of the meeting.

D. Notice of Meetings. Written notice stating the place, day and hour of every meeting of the Treasurers and Chief Investment Officers and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each Participating Political Subdivision's Treasurer or Chief Investment Officer of record entitled to vote at such meeting, at the address which appears on the books of the Trust Fund. Such notice may include any rules established by the Board of Trustees governing the nomination and election of candidates, determination of vote allocations, and other such matters.

E. Quorum. Any number of Treasurers and Chief Investment Officers together holding at least a majority of the outstanding beneficial interests entitled to vote with respect to the business to be transacted, who shall be physically present in person at any meeting duly called, shall constitute a quorum of such group for the transaction of business. If less than a quorum shall be in attendance at the time for which a meeting shall have been called, the meeting may be adjourned from time to time by a majority of the Treasurers and Chief Investment Officers present. Once a beneficial interest is represented for any purpose at a meeting of Treasurers and Chief Investment Officers, it shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is, or shall be, set for that adjourned meeting.

F. Voting. At any meeting of the Treasurers and Chief Investment Officers, each Treasurer or Chief Investment Officer entitled to vote on any matter coming before the meeting shall, as to such matter, have one vote, in person, for each two hundred fifty thousand ($250,000) dollars, or fraction thereof, invested in its name in the Trust Fund, based upon an annual weighted average during the previous fiscal year ending June 30. Notwithstanding the preceding sentence, at any meeting held after the date the *tenth (10th)* Participating Political Subdivision joins the Trust, no one Treasurer or Chief Investment Officer may vote more than *tM'enty percent (20%)* of the total votes cast. A Treasurer or Chief Investment Officer may, by written and signed proxy, designate another employee or elected official of his/her Participating Political Subdivision to cast his/her votes in person at the meeting. A delegation of authority issued under Section 106(A)(8) does not replace the requirement for a written and signed proxy at meetings of the Treasurers and Chief Investment Officers of Participating Political Subdivisions.

If a quorum is present at a meeting of the Treasurers and Chief Investment Officers, action on a matter other than election of Trustees shall be approved if the votes cast favoring the action exceed the votes cast opposing the action, unless a vote of a greater number is required by this Agreement. If a quorum is present at a meeting of the Treasurers and Chief Investment Officers, nominees for Trustees for all open seats for each class of Trustees on the Board of Trustees shall be elected by a plurality of the votes cast by the beneficial interests entitled to vote in such election.

Treasurers and Chief Investment Officers at the annual meeting will vote at one time to fill all open positions within a single class of Trustees. Elections will be held by class, in the order of the length of the terms to be filled, beginning with the longest term. Each Treasurer or Chief Investment Officer will cast up to the full number of its votes for each open position within a class of Trustees but may not cast votes for more than the number of open positions in such class. Those nominees receiving the largest plurality of votes, up to the number of positions to be filled, will be declared elected. Subsequent votes may be held to break any ties, if necessary, in order to elect the correct number of Trustees.

PART 4 - PROVISIONS APPLICABLE TO OFFICERS

Section 401. ELECTION AND REMOVAL OF OFFICERS.

A. Election of Officers; Terms. The Board of Trustees shall appoint the officers of the Trust Fund. The officers of the Trust Fund shall consist of a Chairperson of the Board, a Vice-Chairperson, and a Secretary. The Secretary need not be a member of the Board of

Trustees and may be the Administrator. Other officers, including assistant and subordinate officers, may from time to time be elected by the Board of Trustees, and they shall hold office for such terms as the Board of Trustees may prescribe. All officers shall hold office until the next annual meeting of the Board of Trustees and until their successors are elected.

B. Removal of Officers; Vacancies. Any officer of the Trust Fund may be removed summarily with or without cause, at any time, on a three-fourths (%) vote of the Board of Trustees present at a duly called meeting. Vacancies may be filled by the Board of Trustees.

Section 402. DUTIES.

A. Duties, generally. The officers of the Trust Fund shall have such duties as generally pertain to their offices, respectively, as well as such powers and duties as are prescribed by law or are hereinafter provided or as from time to time shall be conferred by the Board of Trustees. The Board of Trustees may require any officer to give such bond for the faithful performance of such officer's duties as the Board of Trustees may see fit.

B. Duties of the Chairperson. The Chairperson shall be selected from among the Trustees. Except as otherwise provided in this Agreement or in the resolutions establishing such committees, the Chairperson shall be *ex officio* a member of all Committees of the Board of Trustees. The Chairperson shall preside at all Board meetings. The Chairperson may sign and execute in the name of the Trust Fund stock certificates, deeds, mortgages, bonds, contracts or other instruments except in cases where the signing and the execution thereof shall be expressly delegated by the Board of Trustees or by this Agreement to some other officer or agent of the Trust Fund or as otherwise required by law. In addition, he/she shall perform all duties incident to the office of the Chairperson and such other duties as from time to time may be assigned to the Chairperson by the Board of Trustees. In the event of any vacancy in the office of the Chairperson, the Vice-Chairperson shall serve as Chairperson on an interim basis until such vacancy is filled by subsequent action of the Board of Trustees.

C. Duties of the Vice-Chairperson. The Vice-Chairperson, if any, shall be selected from among the Trustees and shall have such powers and duties as may from time to time be assigned to the Vice-Chairperson. The Vice-Chairperson will preside at meetings in the absence of the Chairperson.

D. Duties of the Secretary. The Secretary shall act as secretary of all meetings of the Board of Trustees and of the Treasurers and Chief Investment Officers. When requested, the Secretary shall also act as secretary of the meetings of the Committees of the Board of Trustees. The Secretary shall keep and preserve the minutes of all such meetings in permanent books. The Secretary shall see that all notices required to be given by the Trust Fund are duly given and served. The Secretary may, at the direction of the Board of Trustees, sign and execute in the name of the Trust Fund stock certificates, deeds, mortgages, bonds, contracts or other instruments, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Trustees or by this Agreement. The Secretary shall have custody of all deeds, leases, contracts and other important Trust Fund documents; shall have charge of the books, records and papers of the Trust Fund relating to its organization and management as a trust; and shall see that all reports, statements and other documents required by law are properly filed.

PART 5 **- MISCELLANEOUS PROVISIONS**

Section 501. TITLES.

The titles to Parts and Sections of this Agreement are placed herein for convenience of reference only, and the Agreement is not to be construed by reference thereto.

Section 502. SUCCESSORS.

This Agreement shall bind and inure to the benefit of the successors and assigns of the Trustees, the Treasurers and Chief Investment Officers, and the Participating Political Subdivisions.

Section 503. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one instrument, which may be sufficiently evidenced by any counterpart. Any Participating Political Subdivision that formally applies for participation in this Agreement by its execution of a Trust Joinder Agreement which is accepted by the Trustees shall thereupon become a party to this Agreement and be bound by all of the terms and conditions thereof, and said Trust Joinder Agreement shall constitute a counterpart of this Agreement.

Section 504. AMENDMENT OR TERMINATION OF THIS AGREEMENT; TERMINATION OF PLANS.

A. Duration. The Trust shall be perpetual, subject to the termination provisions contained in Section 504, Subsection C below.

B. Amendment. This Agreement may be amended in writing at any time by the vote of a two-thirds (2/3) majority of the Trustees. Notwithstanding the preceding sentence, this Agreement may not be amended so as to change its purpose as set forth herein or to permit the diversion or application of any funds of the Trust Fund for any purpose other than those specified herein.

The Board of Trustees, upon adoption of an amendment to this Agreement, shall provide notice by sending a copy of any such amendment to each Treasurer and Chief Investment Officer within 15 days of adoption of such amendment. If a Treasurer or Chief Investment Officer objects to such amendment, the Treasurer or Chief Investment Officer must provide written notice of its objection and intent to terminate its participation in the Trust Fund by registered mail delivered to the Administrator within ninety (90) days of such notice, and if such notice is given, the amendments shall not apply to such Participating Political Subdivision for a period of 180 days from the date of adoption of such amendments. The Participating Political Subdivision's interest shall be terminated in accordance with the provisions of paragraph B of this section.

C. Withdrawal and Termination. Any Participating Political Subdivision may at any time in its sole discretion withdraw and terminate its interest in this Agreement and any trust created hereby by giving written notice from the Participating Political Subdivision's Treasurer or Chief

Investment Officer to the Trustees in the manner prescribed by this Section. The Trust Fund may be terminated in its entirety when all participation interests of all Participating Political Subdivisions have been terminated in their entirety. This Agreement and the Trust Fund will then be terminated in its entirety pursuant to Virginia law.

In case of a termination of this Agreement, either in whole or in part by a Participating Political Subdivision, the Trustees shall hold, apply, transfer or distribute the affected assets of the Trust Fund in accordance with the applicable provisions of this Agreement and as directed by the Treasurer or Chief Investment Officer of each Participating Political Subdivision. Upon any termination, in whole or in part, of this Agreement, the Trustees shall have a right to have their respective accounts settled as provided in this Section 504.

In the case of the complete or partial termination of this Agreement as to one or more Participating Political Subdivisions, the affected assets of the Trust Fund shall continue to be held pursuant to the direction of the Trustees, for the benefit of the Participating Political Subdivision, until the Trustees, upon recommendation of the Administrator, distribute such assets to a Participating Political Subdivision, or other suitable arrangements for the transfer of such assets have been made. This Agreement shall remain in full effect with respect to each Participating Political Subdivision that does not terminate or withdraw its participation in the Trust Fund, or whose participation is not terminated by the Trustees. However, if distributions must be made, the Treasurer or Chief Investment Officer of each Participating Political Subdivision shall be responsible for directing the Administrator on how to distribute the beneficial interest of such Participating Political Subdivision. In the absence of such direction, the Administrator may take such steps as it determines are reasonable to distribute such Participating Political Subdivision's interest.

A Participating Political Subdivision must provide written notice of its intent to terminate its participation in the Trust Fund by registered mail signed by the appropriate official of the subdivision and delivered to the Administrator.

Notwithstanding the foregoing, the Trustees shall be required to pay out any assets of the Trust Fund to Participating Political Subdivisions upon termination of this Agreement or the Trust Fund, in whole or in part, upon receipt by the Trustees of written certification from the Administrator that all provisions of law with respect to such termination have been complied with. The Administrator shall provide the required written certification to the Trustees within three (3) working days of receiving a written notice of intent to terminate as described above. The Trustees shall rely conclusively on such written certification and shall be under no obligation to investigate or otherwise determine its propriety.

When all of the assets of the Trust Fund affected by a termination have been applied, transferred or distributed and the accounts of the Trustees have been settled, then the Trustees and Administrator shall be released and discharged from all further accountability or liability respecting the Trust Fund, or portions thereof, affected by the termination and shall not be responsible in any way for the further disposition of the assets of the Trust Fund, or portions thereof, affected by the termination or any part thereof so applied, transferred or distributed; provided, however, that the Trustees shall provide full and complete accounting for all assets up through the date of final disposition of all assets held in the Trust.

Section 505. SPENDTHRIFT PROVISIONS; PROHIBITION OF ASSIGNMENT OF INTEREST.

The Trust Fund shall be exempt from taxation and execution, attachment, garnishment, or any other process. No Participating Political Subdivision or other person with a beneficial interest in any part of the Trust Fund may commute, anticipate, encumber, alienate or assign the beneficial interests or any interest of a Participating Political Subdivision in the Trust Fund, and no payments of interest or principal shall be in any way subject to any person's debts, contracts or engagements, nor to any judicial process to levy upon or attach the interest or principal for payment of those debts, contracts, or engagements.

Section 506. VIRGINIA FREEDOM OF INFORMATION ACT.

The Administrator shall give the public notice of the date, time, and location of any meeting of the Board of Trustees' or of the Treasurers and Chief Investment Officers in the manner and as necessary to comply with the Virginia Freedom of Information Act (Va. Code §§ 2.2-3700 *et seq).* The Secretary or its designee shall keep all minutes of all meetings, proceedings and acts of the Trustees and of Treasurers and Chief Investment Officers, but such minutes need not be verbatim. Copies of all minutes of the Trustees and of Treasurers and Chief Investment Officers shall be sent by the Secretary or its designee to the Trustees.

All meetings of the Board of Trustees and of Treasurers or Chief Investment Officers shall be open to the public, except as provided in § 2.2-3711 of the Virginia Code. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in §§ 2.2-3708 or 2.2-3708.1 of the Virginia Code.

Section 507. JURISDICTION.

This Agreement shall be interpreted, construed and enforced, and the trust or trusts created hereby shall be administered, in accordance with the laws of the United States and of the Commonwealth of Virginia, excluding Virginia's law governing the conflict of laws.

Section 508. SITUS OF THE TRUST.

The situs of the trust or trusts created hereby is the Commonwealth of Virginia. All questions pertaining to its validity, construction, and administration shall be determined in accordance with the laws of the Commonwealth of Virginia. Venue for any action regarding this Agreement is the City of Richmond, Virginia.

Section 509. CONSTRUCTION.

Whenever any words are used in this Agreement in the masculine gender, they shall be construed as though they were also used in the feminine or neuter gender in all situations where they would so apply and whenever any words are used in this Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply, and whenever any words are used in this Agreement in the plural form,

they shall be construed as though they were also in the singular form in all situations where they would so apply.

Section 510. CONFLICT.

In resolving any conflict among provisions of this Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of the Agreement, the interpretation that (i) causes the Trust Fund to be exempt from tax under Code Sections 115 and 501(a), and (ii) causes the participating Plan and the Trust Fund to comply with all applicable requirements of law shall prevail over any different interpretation.

Section 511. NO GUARANTEES.

Neither the Administrator nor the Trustees guarantee the Trust Fund from loss or depreciation or for the payment of any amount which may become due to any person under any participating Plan or this Agreement.

Section 512. PARTIES BOUND; NO THIRD PARTY RIGHTS.

This Agreement and the Trust Joinder Agreements, when properly executed and accepted as provided hereunder, shall be binding only upon the parties hereto, *i.e.*, the Board of Trustees, the Administrator and the Participating Political Subdivisions. Neither the establishment of the Trust nor any modification thereof, nor the creation of any fund or account shall be construed as giving to any person any legal or equitable right against the Trustees, or any officer or employee thereof, except as may otherwise be provided in this Agreement. Under no circumstances shall the term of employment of any Employee be modified or in any way affected by this Agreement.

Section 513. NECESSARY PARTIES TO DISPUTES.

Necessary parties to any accounting, litigation or other proceedings relating to this Agreement shall include only the Trustees and the Administrator. The settlement or judgment in any such case in which the Trustees are duly served or cited shall be binding upon all Participating Political Subdivisions and upon all persons claiming by, through or under them.

Section 514. SEVERABILITY.

If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Agreement shall continue to be fully effective. If any provision of the Agreement is held to violate the Code or to be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the trust created by this Agreement.

Approved by Board of Trustees, September 13, 2013
Amended by Board of Trustees, January 24, 2014

[SIGNATURE PAGE FOLLOWS]

TRUST JOINDER AGREEMENT FOR PARTICIPATING POLITICAL SUBDIVISIONS IN THE VACo/VML VIRGINIA INVESTMENT POOL

THIS TRUST JOINDER AGREEMENT is made by and between the Treasurer of the County of Fluvanna,Virginia (herein referred to as the "Treasurer"), Board of Supervisors of the County of Fluvanna, a political subdivision of the Commonwealth of Virginia(herein referred to as the "Participating Political Subdivision"), and the Board of Trustees (herein collectively referred to as the "Trustees") of the VACo/VML Virginia Investment Pool (herein referred to as the "Trust Fund").

WITNESSETH:

WHEREAS, the governing body of the Participating Political Subdivision desires to participate in a trust for the purpose of investing monies belonging to or within its control, other than sinking funds, in investments authorized under Section 2.2-4501 of the Virginia Code; and

WHEREAS, the governing body of the Participating Political Subdivision has adopted an ordinance and/or resolution (a certified copy of which is attached hereto as Exhibit A) to authorize participation in the Trust Fund and has designated the Treasurer to serve as the trustee of the Participating Political Subdivision with respect to the Trust Fund and to determine what funds under the Treasurer's/Chief Investment Officer's control shall be invested in the Trust Fund, and has authorized the Treasurer to enter into this Trust Joinder Agreement; and

WHEREAS, the Trust Fund, in accordance with the terms of the VACo/VML Virginia Investment Pool Trust Fund Agreement (the "Agreement"), provides administrative, custodial and investment services to the Participating Political Subdivisions in the Trust Fund; and

WHEREAS, the Treasurer, upon the authorization of the governing body of the County of Fluvanna, Virginia, desires to submit this Trust Joinder Agreement to the Trustees to enable the County of Fluvanna, Virginia, to become a Participating Political Subdivision in the Trust Fund and a party to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements flowing to each of the parties hereto, it is agreed as follows:

1. Pursuant to the Board of Trustees' acceptance of this Tmst Joinder Agreement, the County of Fluvanna, Virginia, is a Participating Political Subdivision in the Trust Fund, as provided in the Agreement, and the Treasurer is authorized to enter into this Trust Joinder Agreement, and to represent and vote the beneficial interest of the County of Fluvanna, Virginia, in the Trust Fund in accordance with the Agreement.

2. Capitalized terms not otherwise defined in this Trust Joinder Agreement have the meaning given to them under the Agreement.

3. The Treasurer shall cause appropriations designated by the Participating Political Subdivision for deposit in the Trust Fund to be deposited into a depository designated by the Trustees.

4. The Treasurer shall timely remit, or timely approve the remittance of, administrative fees as may be due and payable by the Participating Employer under the Agreement into a depository designated by the Trustees.

5. The Participating Political Subdivision shall have no right, title or interest in or to any specific assets of the Trust Fund, but shall have an undivided beneficial interest in the Trust Fund; however, there shall be a specific accounting of assets allocable to the Participating Political Subdivision.

6. The Treasurer shall provide to the Administrator designated by the Trustees all relevant information reasonably requested by the Administrator for the administration of the Participating Political Subdivision's investment, and shall promptly update all such information. The Treasurer shall certify said information to be correct to the best of his/her knowledge, and the Trustees and the Administrator shall have the right to rely on the accuracy of said information in performing their contractual responsibilities.

7. The Trust Fund provides administrative, custodial and investment services to the Participating Political Subdivision in accordance with the Agreement.

8. The Trustees and the Administrator, in accordance with the Agreement and the policies and procedures established by the Trustees, shall periodically report Trust activities to the Participating Political Subdivision on a timely basis.

9. The Treasurer and the Participating Political Subdivision agree to abide by and be bound by the terms, duties, rights and obligations as set forth in the Agreement, as may be amended by the Trustees, which is attached hereto and is made a part of this Trust Joinder Agreement.

10. The Treasurer, in fulfillment of his/her duties as the trustee of the Participating Political Subdivision, retains the services of the Investment Manager or Managers selected by the Trustees pursuant to the Agreement.

11. The term of this Trust Joinder Agreement shall be indefinite. The Treasurer may terminate this Trust Joinder Agreement on behalf of the Participating Political Subdivision by giving notice in writing to the Trustees. Termination shall be governed by the provisions of the Agreement.

[Signature Page to follow.]

IN WITNESS WHEREOF, the Treasurer has caused this Trust Joinder Agreement to be executed this ___ day of _____ , 20 ___.

TREASURER
COUNTY OF FLUVANNA, VIRGINIA

Linda Lenherr

COUNTY OF FLUVANNA, VIRGINIA

By: _____
Steven M. Nichols, County Administrator

TRUSTEES

_____, as Trustee of
the VACo/VML Virginia Investment Pool

ATTEST:

* * * *

ACCEPTANCE:

VACo/VML VIRGINIA INVESTMENT POOL
Virginia Local Government Finance Corporation

By:_____
Administrator

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